

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

150

**CWP-23690-2022 (O&M).
Date of Decision: 17.10.2022.**

Sahiba @ Saiba and others

...Petitioners

Versus

Om Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Arun Kumar Singal, Advocate, for the petitioners.

VINOD S. BHARDWAJ. J (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of an appropriate writ/order for setting aside the order/award dated 10.07.2021 (Annexure P-2) and order dated 14.09.2021 (Annexure P-4) passed by the National LokAdalat/Motor Accident Claims Tribunal, Panipat, while disposing of the petition under Sections 160/140 of the Motor Vehicles Act, 1988.

Learned counsel appearing on behalf of the petitioners contends that Aamir son of Yakin, husband of petitioner No.1 and father of petitioner Nos.2 and 3 had met with an accident on 27.09.2020 and as a result of the injuries sustained, Aamir died. He contends that the deceased Aamir was 23 years of age and also used to run a milk dairy.

An FIR No.189 dated 28.09.2020 under Sections 279 and 304-A of the Indian Penal Code was registered at Police Station Sanoli, District Panipat. It is contended that respondents No.4 and 5 filed a claim petition before the Motor Accident Claims Tribunal, Panipat (Annexure P-1). He submits that the petitioners were impleaded as proforma respondents in the said claim petition and an award was passed by the National Lok Adalat/Motor Accident Claims Tribunal, Panipat on 10.07.2021, whereby an amount of Rs.15 lacs was awarded in favour of the petitioners to be disbursed equally. He contends that the petitioners herein had not been served and were residing at another place and had not given their consent to the aforesaid settlement. It is contended that when the petitioners went to file their own separate claim petition, they became aware that the claim petition filed by the father and mother of deceased Aamir had already attained finality in the Lok Adalat/ Motor Accident Claims Tribunal.

He submits that the said award is not binding on the petitioners as they never consented to the award. Thus, an application was filed at the behest of the petitioners to seek review of the order dated 10.07.2021. The said application is attached with the present petition as Annexure P-3. In the said application, the petitioners claimed for their share in the compensation. The same was finally decided vide order dated 14.09.2021 which reads thus:-

“Sh. Anil Kumar Rawal, Advocate for claimants Yakin and Hazra and Sh. Vijay Singh Malik, Advocate for claimants Sahiba, Sana and Saheen gave a statement that they have no objection if the claim of Rs. 15,00,000/- along

with interest is distributed amongst the claimants to the extent of 15% each to Yakin and Hazra, 20% to Sahiba and 25% each to Sana and Saheen. It is also evident that the name of Sana has wrongly been mentioned as Umena. The same is liable to rectified. The application filed by the applicants is disposed of with the direction that the claim shall be distributed amongst the claimants to the extent of 15% each to Yakin and Hazra, 20% to Sahiba and 25% each to Sana and Saheen. The Reader of this Court is directed to correct the name of Sana in the Award dated 10.07.2021. Papers be attached with the main case file and be consigned to the records after due compliance.”

He contends that the subsequent order dated 14.09.2021 (Annexure P-4) is prejudicial to the rights of the petitioners herein and accordingly, the same is not binding in so far as the rights of the petitioners are concerned.

I have heard the learned counsel for the petitioners and have gone through the impugned order dated 14.09.2021 (Annexure P-4). A perusal of the aforesaid order extracted above clearly shows that the petitioners were duly represented by their Advocate, Sh.Vijay Singh Malik, who had entered into a settlement on behalf of the petitioners. On the basis of the settlement, the amount of Rs.15 lacs already awarded vide award dated 10.07.2021 (Annexure P-2) was re-apportioned amongst the petitioners as well as the proforma respondents.

The aforesaid apportionment of the award has been accepted by the petitioners through their counsel and it is nowhere

alleged in the present petition that their Advocate had no authority to enter into settlement. It shows not only the approval of the petitioners to the amount so awarded but also records their satisfaction to the awarded amount upon its re-apportionment amongst the parties.

The petitioners have alleged that their Advocate accepted the apportionment under duress. However, the allegation about duress is neither substantiated nor supported by affidavit of the Counsel. It is also not disclosed as to who had put the Counsel under duress and as to why the same was not brought to the notice of the Presiding Officer. The allegation thus fails to inspire any confidence and it seems that the aforesaid averment has been made solely to wriggle out of the settlement. Once the petitioners have seemingly accepted the modification of the award and were fully satisfied with the same, the challenge to re-apportionment cannot be made after having entered into the same through their own volition and without any undue influence, pressure or coercion.

The present petition is, accordingly, dismissed in *limine*.

October 17, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No