

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

FAO 1300 of 2018 (O&M)

Date of decision: 11/11/2022

Narain Singh

.....Appellant

Vs.

Smt.Sunita and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vipul Aggarwal, Advocate for the claimant/appellant
(Father of the deceased).

Mr. Govind Rana, Advocate for respondent no.1(claimant
mother of the deceased)

Ms.Vandana Malhotra, Advocate for respondent no.4-
Insurance Company

Nidhi Gupta,J.

This is an appeal filed by the father of the deceased-Sandeep Kumar seeking modification/ enhancement of the Award dated 12.12.2017 passed by the Motor Accident Claims Tribunal, Gurugram (for short 'the Tribunal'), in MACT case no.77/2016 and 47/2016, to the extent it limits his entitlement to a sum of Rs.30,000/- out of total awarded amount of Rs.13,26,000/-.

Brief facts of the case are that deceased Sandeep was son of appellant Narain Singh and his former wife Smt. Sunita (respondent no.1 herein). Appellant-father Narain Singh filed MACT case no.47 of 2016

before the Tribunal; whereas mother of the deceased namely Smt.Sunita alongwith other claimants filed MACT case No.77/2016 before the Tribunal. After considering the evidence on record, learned Tribunal held that deceased Sandeep (Cleaner) alongwith deceased Tejpal (driver of the ill fated Eicher Canter No. HR-55-J-3894) had died due to motor vehicular accident which took place on 22.6.2016, while the deceased were on their way from IMT Manesar, Gurugram to Ghaziabad on Kundli Manesar-Palwal Express Highway, near village Yadupur, District Palwal when the vehicle they were travelling in, dashed against a stationary truck bearing registration No.HR-73-7585, which was wrongly parked in the middle of the road without any indicator, reflector or any kind of stones etc. Learned Tribunal after considering the evidence on record awarded a total sum of Rs.13,26,000/-, out of which Rs.30,000/- was to be paid to claimant/appellant Narain Singh, while the remaining amount of compensation to the tune of Rs. 12,96,000/- was awarded to claimant mother Smt. Sunita. Ld. Tribunal further awarded Rs.9.28,200/- only to Smt. Sunita mother of the deceased in MACT case No.77/2016. All the respondents were jointly and severally held liable to pay the amount of compensation alongwith interest @ 7.5% per annum with recovery rights granted to the Insurance Company.

It is pointed out by the learned counsel for the appellant that during pendency of the present Appeal he had filed CM 12485-CII of 2021 under Section 151 CPC, thereby seeking inter-alia, the vacation of

stay order dated 23.5.2018 passed by this Court in this Appeal whereby this Court had stayed execution of the Award beyond 60%; as also that 40% of the amount of compensation awarded by the Tribunal be released to the appellant-applicant in terms of compromise-affidavit dated 9.10.2018 (Annexure A-6), entered into between the parents of the deceased. Notice of this CM no. 12485-CII- of 2021 was issued on 15.11.2021. However , no reply has been filed thereto. Accordingly, said CM no. 12485-CII of 2021 is allowed and Annexures A1 to A6 are taken on record.

Ld. Counsel for the appellant states that during the pendency of this Appeal, the claimants/ parents of the deceased Sandeep - the appellant and respondent no.1 herein - had filed petition under Section 13-B of the Hindu Marriage Act, 1955, being HMA Case No.475/2018 dated 30.8.2018 (Annexure A-2) before the Additional Principal Judge, Family Court, Gurugram for grant of divorce by mutual consent. Vide Compromise Deed dated 9.10.2018 (Annexure A-6) entered it was agreed and settled between the claimants/ parents of the deceased that respondent no.1-mother had already received 60% of Rs. 13,26,000/- the compensation awarded by the Tribunal, and she had no objection if the remaining 40% be given to the appellant-father herein. Thereafter, the parties were granted divorce by mutual consent vide order dated 4.5.2019 (Annexure A-5) passed by Additional Principal Judge, Family Court, Gurugram in abovesaid terms.

It is accordingly submitted by Id. Counsel for the appellant that he shall be satisfied if the stay order dated 23.5.2018 passed by this Court be vacated and this appeal be disposed of in view of the terms of settlement dated 9.10.2018 (Annexure A-6) arrived at between the appellant and respondent no.1 herein, and the remaining amount viz 40% of the compensation awarded by the Tribunal be released to the appellant.

Ld. Counsel appearing on behalf of the respondents do not dispute the aforesaid facts and situation, and have submitted that they have no objection if the present appeal is disposed of in abovesaid terms.

This appeal is accordingly, disposed of in above said terms with the direction that 40% of the amount of compensation as awarded by MACT Gurugram, stated to be lying deposited with the Tribunal, be released/ paid to the appellant forthwith in terms of Compromise dated 9.10.2018 (Annexure A-6).

Ordered accordingly.

Pending application(s), if any also stand disposed of.

(Nidhi Gupta)
Judge

11.11.2022
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No