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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: May 02, 2023

Surjit Kaur and others

....Petitioners

versus

Kulwant Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. I.S. Saggu, Advocate for petitioners.

None for respondents.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 08.04.2016 (Annexure P-6) whereby execution application has been disposed of/consigned to record room without satisfying recovery certificate dated 21.10.2015 (Annexure P-4) issued by learned Motor Accidents Claims Tribunal, Ludhiana (for brevity, 'Tribunal') for a sum of Rs.8,88,195/- as only Rs.4,06,081/- has been allowed to be released to petitioner/deGREE holders.

2. The revision petition is premised on the averments that petitioners being legal heirs of deceased-Mohan Singh filed claim petition before learned Tribunal. Vide award dated 02.09.2014 (Annexure P-1), learned Tribunal awarded compensation of Rs.5,29,850/-. Aggrieved, petitioners filed FAO-519-2005 before this Court, which was disposed of vide order dated 14.07.2015 (Annexure P-2). Said order was not challenged and attained finality.

2.1. Petitioners filed execution application for recovery of Rs.8,73,757.50 on the basis of aforesaid order of this Court. Vide order dated 17.10.2015 (Annexure P-3), execution was sent to District Collector, Chandigarh for execution of Award and get the awarded amount recovered from judgment-debtor(s) and

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recovery certificate dated 21.10.2015 (Annexure P-4) was issued and Collector, Chandigarh was directed to effect recovery of Rs.8,88,195/- from respondents as arrears of land revenue. Respondent-Insurance Company deposited Rs.4,06,081/- vide cheque dated 11.02.2016.

2.2. Upon application moved by petitioners, learned Tribunal vide impugned order dated 08.04.2016 (Annexure P-6), ordered to release the said amount to petitioners and also ordered that the file be consigned to record room. An amount of Rs.4,82,114/- is still recoverable from the Insurance Company as per order dated 14.07.2015 and recovery certificate issued by learned Tribunal.

3. On the last date of hearing, Registry was directed to issue notice to counsels for the parties since case was taken up after a long gap caused by intervening pandemic. As per office report, both learned counsels were informed through e-mail. Despite service, none appears on behalf of respondents, which seemingly is suggestive of the fact that they are not seriously prejudiced.

4. I have heard learned counsel for petitioners and perused case file.

5. Vide order dated 14.10.2019 passed by a co-ordinate Bench presided over by my learned Brother Sudip Ahluwalia, J., (as he then was in this Court) following order was passed:

“Learned counsel for the petitioners draws the attention of the Court to the judgment passed by this Court in FAO No.519 of 2005 on 14.07.2015 (Annexure P-2) according to which the total compensation was assessed as Rs.7,70,000/- apart from interest @ 7.5% per annum on the whole amount including the enhanced amount.

Thereafter, vide impugned order dated 08.04.2016, the Ld. MACT during the execution proceedings permitted to release the amount of Rs.4,06,081/- deposited on behalf of the insurance company. But at the end of the impugned order, it was noted “File be consigned to the record room” thereby implying as if the execution proceedings have been disposed off on full satisfaction, whereas according to the petitioners an additional amount exceeding Rs.4 lakhs, inclusive of interest, is still outstanding.

Learned counsel for the respondents seeks short adjournment to verify this position.

On his request adjourned to 04.11.2019.”

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6. Perusal of above shows that the claim in execution application yet to be satisfied in full and the objection of decree-holders was not considered while consigning the file to the record room by learned Executing Court.
7. In the premise, impugned order dated 08.04.2016 (Annexure P-6) is set aside with liberty to petitioners to file an appropriate affidavit along with proof of payment already been received giving computations therein as to how much of the balance is pending. Upon their doing so, learned Executing Court shall take further appropriate steps for the recovery/ payment of balance decretal amount.
8. Disposed of accordingly.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 02, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No