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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-5634-2017 (O&M)

Date of decision: May 22, 2023

Babita and others

....Revisionists

versus

Union of India

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. R.K. Chaudhary, Advocate and
Mr. Amit Sharma, Advocate (Amicus Curiae) for petitioners.

Mr. Rajiv Sharma, Advocate for the respondent-UOI.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 20.02.2017(Annexure P-3) and order dated 19.04.2017 (Annexure P-4) passed by learned Railways Claims Tribunal, Chandigarh (for short 'Tribunal'), whereby execution petition was disposed of and consigned the file to the record without releasing claimed amount to the claimants.

2. Averments are that petitioner/claimants filed a claim petition before learned Tribunal on account of death of husband of claimant No.1 and father of remaining claimants in a railway accident on 11.03.2007 while travelling by Pooja Express from Panipat to Bandikui Junction. Claim petition was allowed and an amount of Rs.4 lakh was ordered to be given to petitioners and parents of deceased-Devender Kumar (though they were not claimants before the Tribunal).

2.1. Out of the said amount, Rs.2 lakh were ordered to be released to petitioner No.1 and petitioners No.2 to 5 were ordered to be released an amount of Rs.35,000/- each; and Rs.30,000/- each were ordered to be released to parents of

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deceased though they were not claimants in claim petition, along with interest @ 9% per annum from the filing of claim petition till payment is made.

2.2. Aggrieved, respondent filed an appeal before this Court, which was dismissed on 05.08.2015. During its pendency, respondent disclosed that an amount of Rs.6,29,572/- has already been deposited with Additional Registrar, RCT, Chandigarh. While deciding aforesaid appeal, this Court ordered that amount already deposited by the Railways with learned Tribunal be disbursed to petitioners.

2.3. Petitioners filed an execution application before learned Tribunal along with an application for their impleadment as LR's of beneficiaries of Mahender Singh and Raj Bala (parents of deceased Devender who died during pendency claim proceedings i.e., on 05.10.2010 and 11.08.2013, respectively). Said application was disposed of by learned Tribunal vide impugned order dated 20.02.2017 (Annexure P-3) directing petitioners to file an application disclosing names of LR's of deceased Mahender Singh and Raj Bala and also to file an affidavit of petitioner No.1 *qua* the fact that there was no other legal heir of deceased Mahender Singh and Raj Bala, but learned Tribunal did not release remaining amount of Rs.3,40,000/- along with 9% interest as per order dated 11.08.2011.

2.4. Further, petitioners moved an execution application along with application for impleading them as LR's of beneficiaries of Mahender Singh and Raj Bala @ Bala Devi and petitioner No.1 also filed an affidavit stating that there were no other legal representatives of deceased Mahender Singh and Raj Bala other than petitioners.

2.5. Vide impugned order dated 19.04.2017 (Annexure P-4), said application was dismissed.

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3. Learned Amicus Curiae for the petitioners as well as their counsel contend that application was dismissed on the ground that petitioners did not bring LR's of deceased Mahender Singh and Raj Bala on record during pendency of proceedings before learned Tribunal. They contend that there was no occasion for petitioners to move any application at any stage of proceedings either before learned Tribunal or before this Court since they were not party in either proceedings. It was only necessary to implead their LR's at the time of execution and thus, they have not concealed anything.

4. On the other hand, learned counsel for respondent-Union of India strenuously opposes the revision petition and supports the impugned order and argues that same is based on correct findings.

5. I have heard learned counsel for the parties and perused the case file.

6. Having heard respective learned counsels, from the factual narrative contained in the impugned order dated 19.04.2017 (Annexure P-4), application seeking impleadment of LR's of deceased Mahender Singh and Raj Bala, parents of the accident victim that after their death, widow and children of the accident victim namely Smt. Babita, Bobby, Akshay, Sunaina and Sakshi are the only surviving LR's of both parents of the victim as well as victim, along with duly sworn affidavit of his widow (mother of minor children) was also filed in support of averments in the application. It appears that said application was opposed by respondent-Railways merely for the sake of it without there being any material otherwise for them to oppose that there are other surviving legal heirs. Merely on the basis of bald denial that there are other LR's and therefore, application ought to be dismissed, the said averments were accepted and application was dismissed.

6.1. That apart, it is rather frivolous, as has been observed by learned Tribunal below, that the petitioners herein had not produced any document to show that they are the only dependents of deceased Mahender Singh and Raj Bala.

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7. Be that as it may, impugned orders are set aside with a direction to learned Executing Court (Railways Claims Tribunal) to disburse the compensation awarded to the family of the accident victim i.e., widow and all her children by taking an indemnity bond that in case, in future, there are other LR's who stake claim in the share, they shall be held solely responsible for the consequences arising from such claim and the liability thereof, if any, arising out of the same, shall not be fastened on the Railways. The amount to be disbursed would be in the same proportion as determined by learned Tribunal along with interest as awarded by learned Tribunal. Meanwhile, if it so happens that any of the minor children has turned major, the amount will be deposited directly in their bank accounts. It is also made clear that in case, amount has earned any interest, the same shall also be disbursed to the claimants/ LR's.

8. Disposed of accordingly.

9. In the parting, I may hasten to add that this Court appreciates the assistance rendered by learned Amicus Curiae, who has resolved the unnecessary dispute arisen herein.

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

(ARUN MONGA)
JUDGE

May 22, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No