

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

TA No. 372/2022

Date of decision: 19.4.2023

Surinder Kaur and another

.....Petitioners

v

Gagandeep Kaur and others

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Lajpat Rai Sharma, Advocate for the petitioners.

Mr. Ashwani Arora, Advocate for respondents no.1

Despite service none for respondents 2 and 3.

Mr. Mayank Mathur, Advocate for respondent no.4.

Nidhi Gupta, J.(Oral)

1. Prayer in this petition filed by petitioners being parents of deceased Ranjodh Singh Dhillon, who died in a motor vehicular accident that took place on 28.12.2020, is for transfer of the claim petition bearing MACP No.91/5.2.2021 dated 4.2.2021 (Annexure P-1) u/s 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') filed by them alongwith co-claimant/respondent no.1-Gagandeep Kaur herein being widow of said deceased, from the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') to a Court of competent jurisdiction at Distt. Court, Ferozepur.

2. Learned counsel for the petitioners submits that petitioners are 67 and 61 years of age and that respondent no.1 took their signatures on blank papers and filed the claim petition at Chandigarh whereas they were under the impression that the claim petition will be filed at Ferozepur. It is submitted that petitioners never met the Advocate who filed the claim petition at Chandigarh and as such they are suffering mental pain and agony as a well calculated fraud has been played with them by respondent no.1 who won over their faith being their daughter-in-law. It is further submitted that FIR No.156 dated 29.12.2020 u/s 304-A, 279, 427, 337, 338 IPC regarding the occurrence in question also stands registered at PS Zira, District Ferozepur. It is further submitted that respondent no.1 has remarried on 27.3.2022 with some other boy at Bathinda is thus well settled at her new matrimonial home. It is submitted that petitioners being in advanced stage of their lives are unable to travel from Ferozepur to Chandigarh which is approximately 230 kilometers (one side).

3. Upon notice, reply has been filed on behalf of respondent no.1 admitting therein the lodging of the FIR at Zira. However, transfer is contested tooth and nail on the ground that the father-in-law, who was nominee in the Personal Accident Insurance has usurped the entire amount of Rs.15 lacs. It is further averred that petitioners had themselves chosen the jurisdiction at Chandigarh and not only signed the claim petition but also signed vakalatnama in favour of the counsel representing the claimants before the Tribunal at Chandigarh. Factum of remarriage is also admitted by the respondent no.1 by stating that it was done so as she had no support from the petitioners' side.

4. There is no representation on behalf of driver and owner of the offending vehicle-respondents 2 and 3 herein. Ld. counsel for Insurance Company-respondent no.4 does not dispute the jurisdiction of Tribunal at Ferozepur.

5. No other argument has been raised.

6. Heard ld. counsel.

7. It is not disputed that the accident in question took place in District Ferozepur, therefore, territorial jurisdiction is of District Ferozepur. Further, keeping in view the age difference of the parties vis-à-vis petitioners and respondent no.1; distance between Ferozepur and Chandigarh being more than 200 kms., while the distance between Bathinda, place of residence of respondent no.1, and Ferozepur being 100 kms.; common cause of the parties herein; and there being no legal bar in adjudication of the claim petition by the Tribunal at Ferozepur, this Transfer Petition is allowed and it is directed that :-

a) The claim petition under Section 166 of the Act filed by petitioners and respondent no.1, as detailed in para 1 above, is transferred from the Tribunal at Chandigarh to Ferozepur.

b) The ld. District Judge, Chandigarh is directed to transfer complete record pertaining to the aforesaid case to District Judge, Ferozepur.

c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Ferozepur on 25.5.2023.

d) The District Judge, Ferozepur will assign the said petition to the Court of competent jurisdiction.

19.4.2023
Joshi

(Nidhi Gupta)
Judge