

CR-3253-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.149

CR-3253-2023 (O&M)
Date of Decision: 01.12.2023

SIMRAN

....Petitioner

Versus

MOTOR ACCIDENT CLAIM TRIBUNAL AND ORS

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Amit Jaiswal and Ms. Shreya Rana, Advocates
for the petitioner.

Ms. Harita Panthey, Advocate for
Mr. Ishan Gupta, Advocate
for respondent No.1.

Ms. Sumati Jund, Advocate
for respondents No.2 and 3.

Mr. Amit Kundra, Advocate
for respondent No.6.

ARCHANA PURI, J. (Oral)

CM-21982-CII-2023

The present application has been filed for placing on record additional affidavit of the petitioner along with copy of order dated 25.08.2023, passed by respondent No.1 as Annexure P-6.

In view of the averments made in the application, same is allowed and the requisite documents are taken on record.

Main case

Ms. Sumati Jund, Advocate, has made appearance on behalf of respondents No.2 and 3 and filed Power of Attorney, which is taken on record.

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The present revision petition has been filed by the petitioner to seek setting aside of the Award dated 17.03.2023, passed by learned Motor Accident Claims Tribunal (Annexure P-1), whereby the Tribunal had illegally omitted the name of the petitioner from the array of parties in the Award and thereby depriving the petitioner of her lawful compensation, being widow of deceased-Neeraj Chaudhary.

At the very outset, it is submitted by learned counsel for the petitioner that *MACP No. 144 dated 02.08.2022*, titled “*Kanta Devi and another v/s Deepak Kumar and others*” was filed by the parents of the deceased-Neeraj Chaudhary. In the same, the petitioner, who is widow of the deceased, was arrayed as respondent No.4. However, it is submitted by learned counsel for the petitioner that compensation has only been granted to the parents of the deceased and the petitioner has been deprived of the compensation, for no good reason.

From the impugned Award, it is evident that there were three respondents. However, it is submitted by learned counsel that Simran widow of the deceased, Neeraj Chaudhary, who was proforma respondent No.4, was not reflected in the impugned Award.

Furthermore, it is submitted by learned counsel that review application was filed by the petitioner only and the same was allowed vide order dated 25.08.2023, copy whereof has been placed on record today itself, by way of separate miscellaneous application i.e. CM-21982-CII-2023 and the same is Annexure P-6.

Perusal of the order passed on the review application reveals about corrections having made by learned Tribunal of the Paragraph 16, 20, 21 and 22 of the judgment/Award and consequently, the compensation was

granted to the petitioner also.

In the light of the same, it is submitted that the compensation granted to the petitioner, in pursuance of the order passed on the review application, is on a lesser side. She is widow of the deceased and as such, is entitled to more compensation than that granted by learned Tribunal. Also, it is submitted that the Tribunal has intentionally given the less amount of compensation to the petitioner. In this regard, learned counsel makes reference to the affidavit of the petitioner, which has been placed on record today itself. On the basis of the said affidavit, it is submitted that malafide intention is spelt out on the part of the Tribunal.

No doubt, there is glaring overlook on the part of the Tribunal in not considering the claim with regard to compensation to be awarded to the widow, but however, the Award has been rectified by way of filing of the review application. Instead of allowing the error to perpetuate, the same has been rectified in the order dated 25.08.2023 passed in the review application. Once the review application has been disposed of, while granting compensation, even to the petitioner, if the petitioner, as such, has any grievance, she has the option to file an FAO.

So far as submission with regard to compensation having given on a lesser side with malafide intention is concerned, there is no such material coming on record. Even though, reference has been made about the same to have been done intentionally, in the affidavit, but however, why so nothing is spelt out in the affidavit.

On query by the Court with regard to the same, it is submitted by learned counsel that in no other case, it has been so done. Anyhow, the determination of quantum and apportionment is a fact-dependent exercise,

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which is to be conducted by the Tribunal. On further query, as to what was required to be done, as to whether there is any specific provision of law, where the apportionment is required to be at least 50%, as submitted by learned counsel, to this, he had no answer.

In the given circumstances, no malafide, as such, is evident on the part of the Tribunal, more particularly, when the review application has been accepted and the compensation has been granted to the petitioner also. If the petitioner has any grievance with regard to apportionment, she has the option to file FAO for enhancement of her share of compensation (if any).

Accordingly, the instant revision petition stands disposed of.

01.12.2023
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No