IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

258/1 CR No.3765 of 2022(O&M)

Date of Decision: 16.03.2023

Parvati Devi and others ...Petitioners

Versus

United India Insurance Company Limited and others...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Surinder Singh Duhan, Advocate,
for the petitioner.

Mr. Ram Avtar, Advocate,
for respondent No.1.

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VIKAS SURI, J. (Oral)

Learned counsel for the petitioners submits that the instant revision petition was ordered to be listed along with FAO-1951-2021, in which learned counsel for the appellant has sought accommodation to address arguments.

The execution petition is an offshoot of non-compliance of the order dated 03.03.2022 passed in the appeal and the same can be heard independently.

Mr. Ram Avtar, learned counsel for respondent No.1 would submit that vide order dated 03.03.2022 passed in FAO-1951-2022, interest of the insurance company was protected and thus an amount of 50% was required to be deposited by way of FDR in a nationalized bank where there is maximum rate of interest, till further orders and the balance 50% was ordered to be disbursed to the petitioner-claimants against surety and undertaking that in case the amount is found to be excessive, it shall be returned back.

Learned counsel for the parties are *ad idem* that the revision petition can be heard independently and disposed of pending adjudication of the appeal. With the consent of the parties the instant petition is taken up for hearing while adjourning the appeal noticed above.

The facts of the case borne out from the record are that in a motor accident Satbir Singh had died and on claim being filed before the Motor Accident Claims Tribunal, Jind, vide Award dated 05.03.2020, petitioner-claimants were awarded compensation of Rs.39,42,512/- in equal shares on account of death of Satbir Singh in the accident in question. It was further stipulated in the Award that on realization of the amount of compensation, amount of Rs.30,000/- was to be paid in cash to each petitioner and remaining amount of their shares shall be deposited in any nationalized bank in fixed deposit for a period of two years. The awarded amount was to carry interest @ 7.5% per annum. The liability to pay the said compensation rested with the driver, owner and the insurance company jointly and severally. On an appeal being carried to this Court by the insurance company, i.e. FAO-1951-2021, the following order was passed by this Court:-

> "At the very outset, learned counsel for the appellant has made statement that the appellant undertakes to deposit the entire award amount in the learned trial Court, within a period of one month from today.

> Upon doing so, the learned trial Court shall disburse 50% of this amount against the surety and undertaking that in case, the amount is found to be excessive, they shall return back the same.
>
> For remaining amount, 50% be deposited by way of FDR in an nationalized bank where there is maximum rate of interest, till further orders.
>
> Heard.
>
> Notice of motion for 12.10.2022."

It is submitted that on 07.04.2022, the Tribunal passed the following order:-

> "Order dated 03.03.2022 passed by Hon'ble High Court in FAO No.1951-2021(O&M) has been carefully perused. In accordance thereof, 50% of the awarded amount be deposited in the shape of FDR in the name of Motor Accident Claims Tribunal, Jind in the State Bank of India for a period of two years.
>
> Further as per the directions of Hon'ble High Court, claimants have been held entitled to receive 50% of the awarded amount against the surety and undertaking that in case, the amount is found to be excessive, they shall return back the same.
>
> In view thereof, 50% of the award amount, which as per the directions of then Motor Accident Claims Tribunal, Jind has to be disbursed equally amongst all the claimants on furnishing adequate surety to the extent of awarded amount. For the said purpose to come upon 16.04.2022."

That in terms thereof, 50% of the amount deposited by the insurance company was further deposited in the shape of FDR in the name of the Motor Accident Claims Tribunal, Jind in the State Bank of India for a period of two years and the remaining 50% amount, as per the direction of this Court, was also ordered to be disbursed to the claimants against surety and undertaking as noticed above and the matter was posted for 16.04.2022 for the said purpose.

However, as the learned Presiding Officer of the Tribunal was to proceed on leave on the said date, the matter was taken up on 12.04.2022 and was adjourned to 07.05.2022.

Vide order dated 07.05.2022 the Tribunal, after noticing the order passed by this Court on 03.03.2022, noticed that an amount of Rs.47,18,259/- was lying deposited under CCD No.2789 dated 29.03.2022. Accordingly, in view of the order dated 03.03.2022 passed in FAO-1951-2021 and the order dated 07.05.2022 noticed above, 50% of the amount was ordered to be released to the claimant-applicants in equal shares in terms of the Award dated 05.03.2020. The refund voucher was ordered to be issued accordingly against proper receipt and identification. For the remaining 50% amount, the report of the FDR as per the order dated 07.04.2022 was called for from the Ahlmad.

In view of the aforesaid order, the petitioner-claimants withdrew the pending execution.

To the dismay of the petitioners the order dated 07.05.2022, inasmuch as it pertains to the release of the disbursement of the 50% amount as per the order dated 03.03.2022 passed by this Court in FAO-1951-2021, the said amount was not disbursed to them but instead also put in FDR, without there being any orders in that regard.

The petitioner-claimants moved an application before the Tribunal making a prayer to release the amount that had been wrongly put in FDR despite the order of this Court dated 03.03.2022 and orders dated

07.04.2022 and 07.05.2022 passed by the Tribunal. The said application was partly allowed vide order dated 28.07.2022 (Annexure P-3).

The grievance raised in the present petition is against the said order dated 28.07.2022, whereby instead of disbursing the amount, as directed vide order dated 03.03.2022 passed in FAO-1951-2021 by this Court as well as the previous orders passed by the executing Court/Tribunal, only an amount of Rs.2 lakh each from the aforesaid FDR was ordered to be released to the applicants along with interest.

It is contended on behalf of the petitioner-claimants that the Tribunal has erred in law, inasmuch as the impugned order negates the effect of the order dated 03.03.2022 passed by this Court and rightly noticed and acted upon vide orders dated 07.04.2022 and 07.05.2022.

Heard learned counsel for the parties and with their able assistance perused the record.

On consideration of the matter in totality and after hearing learned counsel for the parties, this Court is of the considered opinion that the present petition deserves to be allowed.

It is not disputed that an Award has been passed in favour of the petitioner-claimants granting compensation of Rs.39,42,512/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

On an appeal being carried to this Court at the instance of the insurance company, order dated 03.03.2022, noticed above, was passed, whereby the Tribunal directed to disburse the 50% amount to the claimants against surety and undertaking that in case the amount is found to be excessive, they shall return back the same.

Learned counsel for the contesting respondent No.1 is not in a position to show from the record that the Tribunal has complied with the order dated 03.03.2022 passed by this Court *in toto*.

It is not disputed that an amount of Rs.30,000/- each and another amount of Rs.2 lakh each stands disbursed to the petitioner-claimants.

In view of the above, the impugned order dated 28.07.2022 is modified to the extent that application moved by the applicants for releasing of the amount in terms of the order dated 03.03.2022 passed by this Court in FAO-1951-2021 and that of the executing Court, dated 07.04.2022 and 07.05.2022, stands allowed. As a consequence thereof, the remaining amount after disbursing of Rs.2 lakh each from the said 50% of the FDR of RS.4,41,826/- each in the name of the petitioners, be also disbursed to them against the surety and undertaking stipulated in the order dated 03.03.2022.

The revision petition is allowed in the aforesaid terms.

(VIKAS SURI)
JUDGE

March 16, 2023
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Whether speaking/reasoned: Yes
Whether reportable: No