



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

289

CR-2458-2024 (O&M)

Date of decision:17.05.2024

Jangir Singh @ Jagir Singh & another

... Petitioners

Vs.

Rakesh Kumar & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Satbir Singh Gill, Advocate for the petitioners.

Mr. J.S. Thind, Advocate for respondents No.1 & 2.

Mr. Sanjiv Pabbi, Advocate for respondent No.3.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed for setting aside the order dated 24.05.2023 (Annexure P-7) passed by the Motor Accident Claims Tribunal, Sirsa, whereby application filed by the petitioners for issuance of refund voucher for an amount of Rs.61,370/- along with interest in favour of the petitioners has been dismissed.

2. The brief facts leading to filing of the present revision petition are that the petitioners and the proforma respondents filed a petition under Section 166 of the Motor Vehicle Act, 1988 seeking compensation on account of death of Gurmukh Singh, who was son of the petitioners. The said claim petition was partly allowed vide award dated 05.08.2017 by the



Motor Accidents Claims Tribunal, Sirsa (hereinafter to be referred to as 'the Tribunal'). Vide the aforesaid award, compensation to the tune of Rs.9,81,000/- was awarded in favour of the petitioners and proforma respondents. FAO-8364-2017 titled as 'Suman Rani & others Vs. Rakesh Kumar & others' was filed by the petitioners and proforma respondents before this Court for enhancement of compensation. The said appeal was partly allowed vide order dated 28.05.2019 passed by this Court and compensation was enhanced to Rs.14,87,500/-, which was ordered to be released to claimants No.1 to 4 in equal ratio along with interest @ 7.5% per annum from the date of filing of the petition till realization. It was further ordered that the amount falling to the share of minors shall be kept in FDRs till they attained the age of majority. Since the enhanced compensation was ordered to be given to appellants No.1 to 4 and petitioners, who were appellants No.5 & 6 respectively were not given their share in the enhanced compensation, therefore, the petitioners moved an application for modification of order dated 28.05.2019 passed by this Court. On 09.12.2019, case was adjourned to 10.02.2020 by this Court and vide order dated 09.12.2019, it was directed that in the meanwhile, the Tribunal shall not disburse 10% of the additional amount and the same shall be converted into FDR, payable subject to directions of this Court. Thereafter, vide order dated 22.09.2022 of this Court, the order dated 28.05.2019 was modified and it was ordered that the entire amount of compensation including the enhanced compensation along with interest be disbursed to the claimants in proportion determined by the Tribunal.



3. Before passing of order dated 22.09.2022, petitioners moved an application for release of the enhanced amount before the Tribunal but in view of the order dated 09.12.2019, the enhanced amount was not released and prayer of the petitioners was declined by the Tribunal vide order dated 21.01.2020. After passing of the order dated 22.09.2022, petitioners moved another application before the Tribunal for disbursement of the amount of compensation including the enhanced compensation along with interest, but vide the impugned order dated 24.05.2023, the Tribunal dismissed the said application filed by the petitioners. Hence, aggrieved against the said order, the petitioners have knocked the doors of this Court by way of filing the present revision petition.

4. Learned counsel for the petitioners has contended that the Tribunal has dismissed the application filed by the petitioners for disbursement of the entire amount of compensation including the enhanced compensation without appreciating the order dated 22.09.2022 of this Court. He has further contended that the aforesaid application has been dismissed by the Tribunal by giving reference of order dated 09.12.2019 which was an interim order passed during pendency of the application filed by the petitioners for modification of final order dated 22.09.2022 passed by this Court, but the interim order passed in the aforesaid application merged into the final order dated 22.09.2022.

5. The aforesaid contention raised by learned counsel for the petitioners has not been opposed by learned counsel for respondents No.1 &



2 and counsel for respondent No.3.

6. I have heard learned counsel for the parties and have perused the record thoroughly.

7. From the record, it emerges that order dated 09.12.2022 was the interim order which was passed by this Court, during pendency of the application filed by the petitioners for modification of the final order dated 28.05.2019. When on 09.12.2019, the case was adjourned to 10.02.2020, then it was directed by this Court that in the meantime, Tribunal shall not disburse 10% of the additional amount and the same shall be converted into FDR, payable subject to the directions of this Court. Vide order dated 22.09.2022 of this Court, the aforesaid application filed by the petitioners was allowed and order dated 28.05.2019 was modified and it was ordered that the entire amount of compensation including the enhanced compensation along with interest be disbursed to the claimants in the proportion, determined by the Tribunal. It is thus obvious that interim order dated 09.12.2019 merged into the final order dated 22.09.2022 of this Court. So the Tribunal fell in error while declining the application of the petitioners for releasing of the aforesaid amount by relying upon the interim order dated 09.12.2019 which had merged into the final order dated 22.09.2022. So the impugned order is perverse order and is not sustainable in the eyes of law.

8. Keeping in view the above, this revision petition is allowed. The amount be released in favour of the petitioners as per rules strictly in terms of order dated 22.09.2022 passed by this Court in CM-20541-CII-



2019 in FAO-8364-2017.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

17.05.2024

harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |