



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
209

FAO-2447-2005 (O&M)
Decided on : 17.09.2024

Maya Rani
Versus
Satpal and others
... Appellant(s)
... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. C.L. Verma, Advocate
for the appellant(s).

Mr. Neeraj Khanna, Advocate
for respondent No.3 – Insurance Company.

SANJAY VASHISTH, J. (Oral)

1. Smt. Maya Rani, then aged 48 years, has filed the instant appeal, by challenging the award dated 01.03.2005, passed by the learned Motor Accident Claims Tribunal, Ludhiana (for brevity, 'Ld. Tribunal'), whereby, claim petition bearing MACT No.58 of 01.01.2003, had been dismissed, being the same not maintainable.

2. Raj Kumar, who was son of the appellant died on 28.12.1996, on account of a vehicular accident. Smt. Veena Rani widow of the deceased – Raj Kumar, had filed one MACT Case No.15, dated 08.02.1997, titled as, "Veena Rani vs. Satpal and others", which was disposed of by the Ld. Tribunal, by awarding compensation amount of Rs.1,53,000/- in favour of Smt. Veena Rani, who was impleaded as respondent No.4 by the appellant – Maya Rani in her claim petition before the Ld. Tribunal.

3. On issuing notice, respondents i.e. driver, owner and Insurance



Company of the offending vehicle, appeared and explained that already claim petition (MACT Case No.15, dated 08.02.1997), has been decided, which was filed by the widow of the deceased – Raj Kumar. Considering the purposes of the Act and meaning of filing of application at the instance of the concerned legal heirs of the deceased, Ld. Tribunal recorded its finding in paragraphs No.7, 8 and 9, under issue No.3. For reference, same is reproduced here-under:-

“Issue No.3

7. *Ex.R.1 is the copy of the award dated 9.3.98 passed by Shri G.S. Khaurana the then learned Presiding Officer of the MACT, Ludhiana, in MACT No.15 of 8.2.97 titled as Veena Rani widow of Raj Kumar vs. Satpal & others, based on the same version of the accident, which is now averred by the petitioner Smt. Maya Rani and whereby compensation of Rs.1,53,000/- was awarded in favour of the present respondent Smt. Veena Rani.*

8. *It was contended by Sh. Rajiv Abhi, learned counsel for respondent no.3 i.e. New India, Assurance CoLtd. that against the said award dated 9.3.98, the appeal is pending before the Hon'ble Punjab & Maryana High Court as would appear from Ex.R.2 the information given by the New India Assurance Company Ltd. to its counsel Mr .Rajiv Abhi Advocate on 3.1.05 and that in case the petitioner feels that she is also entitled to share the compensation awarded by the Tribunal vide award dated 9.3.98, she can move the application before the Hon'ble Punjab & Karyana High Court to be impleaded as a party. The spirit of the law as contained under the provision to sub section I of Section 166 of the Act is very much clear in its import that no second claim petition can be filed by the legal representative of the deceased. The proviso to sub-section I of section 166 of the Act provides that where all the legal representatives have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be Impleaded as a*



respondents to the application. Therefore, the Intention of the legislature is made clear through the said proviso that the compensation is an application moved by legal representative of the deceased shall be on behalf of or for the benefit of all the legal representatives of the deceased. Petitioner Maya Rani failed to step into the witness box to make a statement that she had no knowledge about the pendency of the provision claim petition filed by respondent no.4 Smt. Veena Rani widow of the deceased Raj Kumar. The counsel for the petitioner was satisfied by merely tendering the affidavit Ex.A.I of the petitioner into evidence but without offering the petitioner for her cross-examination. Even if the petitioner had been offered for her cross-examination, it would not have made any differences because in view of the proviso added to sub section I of Section 166 of the Act no second claim petition can be filed by any other legal representative of the deceased as the compensation has to be for or the benefit of all the legal representatives in a claim petition brought by any of the legal representative of the deceased earlier. In case the intention of the legislature had been to award the compensation to the legal representatives of the deceased on a claim petition to be filed by them separately, there was no need for adding the proviso to Sub Section I of Section 166 of the Act, which would have been against the public policy. Moreover, a Person cannot be, vexed twice on the same matter. The respondents No.1 to 3 could not be called upon time and again for determining their liability in respect of the same accident. I am, therefore, of the considered opinion that the claim petition is barred in view of the award dated 9.3.98 rendered is MACT No. 15 OF 8.2.97 titled as Veena Rani vs. Satpal & Others. The issue is decided accordingly in favour of the respondents and against the petitioner.

9. *As a result of my findings given on Issue No.3, It would appear that the claim petition is barred and is not maintainable because of the award having been given in MACT No.15 OF 8.2.97 ON 9.3.98 by the learned MACT, Ludhiana and accordingly the claim petition is hereby rejected with costs. The counsel's fee is assessed at Rs.500./-. Memo of costs be prepared.”*



4. Learned counsel for the appellant – claimant also informs that said Veena Rani had filed one appeal i.e. FAO-1159-1998 before this Court, and same was partly allowed vide order dated 03.07.2014, vide which, compensation amount was enhanced to the tune of Rs.4,31,500/-, inclusive of already awarded amount of Rs.1,53,000/- by the Ld. Tribunal.

Learned counsel produces a copy of the order dated 03.07.2014, and the same is taken on record. Registry to tag the same at appropriate place in the case file.

5. With the facts recorded here-above, and the reasoning assigned in the impugned award, and there being nothing much addressed by the appellant – claimant, as to how the finding recorded by Ld. Tribunal can be said to be against the law, I am constrained to accept the same. Accordingly, the present appeal stands **dismissed**.

However, it will be open for the appellant – claimant, to move an appropriate application for seeking recall of the order, if any, alternative remedy available under the law.

(SANJAY VASHISTH)
JUDGE

September 17, 2024

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No