

(1993) 01 P&H CK 0106
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2875 of 1992

Miss Baljit Kaur and Another	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 14-01-1993

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 33 Rule 1, 115

Citation : (1993) 105 PLR 388

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Ajay Pal Singh, for the Appellant; Adarsh Malik, for the Respondent

Final Decision : Allowed

Judgement

V.K. Jhanji, J.—Baljit Kaur and Baljit Singh are minor daughter and son of Mohinder Kaur, wife of Maghar Singh. Maghar Singh died in a road accident. The Motor Accident Claims Tribunal awarded compensation to the tune of Rs. 18,000/- only. A sum of Rs. 6000/- was determined as compensation to the mother, whereas Rs. 12000/- was to be paid to the minors. The amount which was to be paid to the minors, was ordered to be deposited in a scheduled Bank and the minors were held entitled to receive the same on attaining their majority. The amount of the minors was deposited with the executing Court, and the Ahlmad, Nazir and other officials of the Court were asked to deposit the amount in a scheduled bank under the fixed deposit scheme. The said amount was not deposited by the Court authorities and therefore, this led to the filing of the suit by the petitioners for the recovery of the said amount from the concerned officials. The suit was filed under Order 33, Rule 1 of the Code of Civil Procedure, as it was claimed that the minors have no moveable or Immovable property to pay court fee. Application under Order 33, Rule 1 of the Code of Civil Procedure, to sue as indigent persons was dismissed by the trial Court as it was of the view that mother of the minors was awarded Rs. 6000/- as compensation by the Motor Accident Claims Tribunal and that she is also in employment which was

given to her on the death of her husband, from where she is earning Rs. 1000/- per month. In view of this finding, it was also held that Mohinder Kaur being natural guardian of minors has sufficient income to pay the court-fee and therefore, the minors cannot be said to be indigent persons. This order was challenged before the Appellate Authority, which also dismissed the appeal and this is how, the present revision petition has come before me.

2. After hearing learned counsel for the parties, I am of the view that the orders of the Authorities below cannot be sustained. The application to sue as indigent persons was filed by the minors through their natural guardian, who in this case is the mother. The application was rejected only on the ground that the mother has sufficient means to pay the court-fee. This ground insist not" tenable in law as in the application for permission to file the suit as indigent person, the financial condition of the minors alone or the applicants is to be seen. The financial condition of the guardian or any other relative is totally irrelevant and cannot be taken into consideration at all for the purpose of arriving at the conclusion regarding financial condition of the applicants.

3. Resultantly, the revision petition is allowed and the impugned orders are set aside, with costs which are quantified at Rs. 2000/-, and in consequence thereof, the application of the minors to sue as indigent persons stands allowed. The trial Court is directed to register the suit of the minors. Considering that there is an allegation made in the application that the amount of the minors was embezzled by the court-officials, the trial Court is directed to decide the suit of the minors within three months from the date of registration of the suit.