
(2009) 04 MP CK 0065

Madhya Pradesh High Court (Indore Bench)

Case No: None

Mangilal

APPELLANT

Vs

Haider Ali and Another

RESPONDENT

Date of Decision: April 22, 2009

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- Motor Vehicles Act, 1988 - Section 173

Citation: (2009) ILR (MP) 3201 : (2009) 5 MPHT 311 : (2009) 3 MPLJ 319

Hon'ble Judges: Shantanu Kemkar, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Shantanu Kemkar, J.

The petitioner/claimant has filed this revision filed u/s 115 of the CPC challenging the order dated 5-2-2009 passed by the IVth Additional Member, Motor Accident Claims Tribunal, Indore (for short "the Tribunal") in Claim Case No. 199/2001.

The petitioner/claimant sustained grievous injuries in a motor accident occurred on 24-5-2001. He filed a Claim Case No. 199/2001 before the Tribunal. The Tribunal vide award dated 21-10-2003 awarded compensation of Rs. 21,330/- with interest at the rate of 8% per annum to the petitioner/claimant. Dissatisfied with the amount of compensation awarded to him the petitioner/ claimant filed Miscellaneous Appeal No. 134/2004 u/s 173 of the Motor Vehicles Act, 1988 before this Court seeking enhancement of the compensation amount.

On 28-6-2008 in Mega Adalat constituted for speedy disposal of Claim Appeals involving disputes like enhancement of compensation, etc., the petitioner/claimant's Appeal No. 134/04 was heard and decided on the basis of

agreement between the parties to enhance the compensation amount so as to make it Rs. 30,000/- with interest at the rate of 8% per annum from the date of application. Accordingly the appeal was disposed of by this Court vide order dated 28-6-2008 and the petitioner/claimant was held to be entitled for a total sum of Rs. 30,000/- for compensation for the injuries sustained by him in a motor accident with interest at the rate of 8% per annum from the date of application.

In pursuance of the aforesaid order passed by this Court in M.A. No. 134/04 the second respondent insurer deposited Rs. 47,655/- in the Tribunal for its payment to the petitioner/claimant. The petitioner/claimant moved an application for withdrawal of the amount deposited by the insurer. The Tribunal vide impugned order dated 5-2-2009 directed to pay Rs. 4,655/- to the petitioner/ claimant in cash and ordered for deposit Rs. 43,000/- in Bank in fixed deposit for a period of five years. Aggrieved the petitioner/claimant has filed this revision.

Shri Lokesh Mehta, learned Counsel for the appellant placed reliance on the order passed by this Court on 22-10-2008 in the case of Laxminarayan Bharti v. Mukesh Poonumchand Dhakad and Ors. in W.P. No. 6439/08 and argued that the Tribunal while not releasing the entire amount in favour of the petitioner as deposited by the insurer has ignored the law laid down by this Court in the case of Laxminarayan Bharti (supra), as also the judgment passed by the Supreme Court in the case at [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others](#), and the judgment passed by this Court in the case of [Amar Singh Vs. Rajesh and Others](#), . In the case of Amarsingh (supra), this Court in Paragraphs 6,7,9 and 11 has considered the law laid down by the Supreme Court in the case of General Manager, Kerala State Road Transport Corporation (supra), and has held thus:

6. The Tribunal has not understood the spirit behind the guidelines which the Supreme Court has given in the judgment of [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others](#), . The Supreme Court has taken utmost care to see that money awardable to the claimant as compensation should not be spent out by him extravagantly, but at the same time, the Apex Court has taken care to see that the said money should be utilised properly, reasonably for genuine needs of such claimants. Lok Adalats are held for the purpose of giving speedy relief to the person who are coming to the Courts for the purpose of getting relief. The relevant provisions dealing with the claim petitions preferred by the victims who sustained injuries, permanent disability, temporary disability and in case of death should be applied by adopting benevolent approach and attitude. The litigants should be encouraged to come forward before Lok Adalats for the purpose of settling their disputes amicably and speedily. It should be seen that the arrears of such matter are wiped off at an early date by amicable settlement. The approach taken by the Tribunal is not proper, desirable and benevolent keeping pace with the benevolent spirit of the enactment and Lok Adalat

movement.

If the amount which a claimant is entitled to receive, is not given to him at least substantially, why the litigant would be coming to Lok Adalat for the purpose of attempting to settle his dispute amicably? It is common experience that in Lok Adalat the contesting parties reduce their claims reasonably in discussion which leads to amicable settlement. The spirit is to get just relief and forgo unreasonable part of the demand. Therefore, it is presumed that the claimant comes down, at the same time adversary also comes down from the stands taken by it in the litigation byway of written statement at the advice of mediators. That is how the amicable settlements are arrived at in Lok Adalats. If the parties are denied the advantage of getting the substantial amount from such awards. I am afraid, the parties would not be interested in coming forward with eager mood. Now, the Courts have decided to hold Lok Adalats frequently and in that context "Permanent Lok Adalats" have been established. The main purpose in doing this exercise is to see that arrears are wiped off and persons coming to the Courts get relief at least within reasonable time.

The Tribunal should have noted that it is not possible to point out all incidental needs in the judgment while giving the guidelines. The categories have been mentioned but that does not mean that the Tribunal is restricted to those categories only. There may be different needs and the Tribunal is to see whether the need is genuine; whether it is necessary for the said claimant to get the amount for fulfilling the said need. While giving the amount to him it should always be seen whether the amount is sufficient enough to meet his need? It should be seen whether he is interested in spending that amount extravagantly? The test would be always different, depending on different needs put forth. The Claims Tribunal has to use its wisdom for the purpose of finding out correct way for dealing with such prayers and petitions. The judgment of Supreme Court in [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others](#), , and the guidelines given therein in my view are not preventing the Tribunal to use its own reasonable discretion. It is not proper to reject the prayers of all such needy persons by misreading the guidelines given by the Apex Court in Susamma Thomas case (supra).

The Tribunal has to inform itself about the difficulties and needs of such claimants who have amicably settled their disputes in Lok Adalats. The claimants are also required to face remnant effects of such accidents which cloud them even after such mishaps are over.

Having regards to the law laid down by this Court which was again taken note of by this Court in the case of Laxminarayan Bharti (supra), I am of the view that since the petitioner being an adult person in the need of the money and is able to understand how to use the money awarded to him as compensation for the injuries sustained by him in the year 2001 as also the fact that the matter was amicably settled in the Mega Adalat without imposing any condition about deposit of amount in the fixed

deposit, in my view the Tribunal ought to have allowed the petitioner/claimant's application for withdrawal/disbursement of the amount which has been deposited by the insurer, instead of ordering to keep it in the fixed deposits.

Accordingly this revision is allowed. The impugned order dated 5-2-2009 passed by the Tribunal is hereby set aside. The Tribunal is directed to release the entire awarded amount with interest as has been deposited by the insurer to the petitioner/claimant in the name of petitioner through a cross-cheque to be issued in his name.