(2014) 11 TP CK 0024

In the Tripura High Court

Case No : Writ Petition (Civil) Nos. 255 and 256 of 2009 and 36 and 38 of 2010

Batakrishna Paul VsLaxmibala Paul

Date of Decision : 21-11-2014

Acts Referred:
Constitution of India, 1950 — Article 226
Legal Services Authorities Act, 1987 — Section 22(C), 22(E)

Citation : (2014) 11 TP CK 0024

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : S.M. Chakraborty, Sr. Advocate and D. Bhattacharji, Advocate for the Appellant; S.M. Chakraborty, Sr. Advocate, A.L. Saha and D. Bhattacharji, Advocate for the Respondent

Judgement

S.C. Das, J.—The batch of four writ petitions were taken up together for hearing and disposal since a common judgment was passed by Permanent Lok Adalat, Agartala, in Lok Adalat(PUS) No. 4 of 2007 and Lok Adalat(PUS) No. 6 of 2007, which were instituted on a subject of Public Utility Services and common question of law and fact involved in all the writ petitions and hence this single judgment shall govern all the four writ petitions.

2. Respondent No. 1 of WP(C) No. 255 of 2009 and WP(C) No. 36 of 2010, Smti. Laxmi Bala Paul, as petitioner(hereinafter mentioned as original petitioner) instituted Lok Adalat (PUS) No. 4 of 2007 against the writ petitioners(hereinafter mentioned as original opposite parties, for short OPs) claiming compensation of Rs. 10.00 lakhs for the loss of right eye alleging negligence on the part of the OPs, i.e. the writ petitioners.

Similarly, respondent No. 1 of WP(C) No. 256 of 2009 and WP(C) No. 38 of 2010, Sri Narayan Chandra Saha as petitioner(hereinafter mentioned as original petitioner) instituted Lok Adalat (PUS) No. 6 of 2007 before Permanent Lok Adalat, Agartala against the writ petitioners(hereinafter mentioned as original opposite parties, for short OPs) claiming compensation of Rs. 10.00 lakhs for the loss of left eye alleging negligence on the part of the OPs, i.e. the writ petitioners.

3. The Permanent Lok Adalat disposed both the cases by a common judgment and award dated 07.03.2009 and 08.06.2009 respectively. The original OP No. 1 Dr. Bata Krishna Paul challenged the judgment and award of the Lok Adalat by filing WP(C) No. 255 of 2009 and WP(C) No. 256 of 2009. Similarly, the original OP Nos. 2 and 3, i.e. Director of Health Services and the State of Tripura also challenged the judgment and award by filing WP(C) No. 36 of 2010 and WP(C) No. 38 of 2010. The Lok Adalat awarded compensation of Rs. 2.00 lakh to the original petitioner, Laxmi Bala Paul and awarded Rs. 3.00 lakhs to the original petitioner, Narayan Chandra Saha. It is also directed by the Lok Adalat that original OP No. 1, Dr. Bata Krishna Paul shall pay 50 percent of the awarded amount and the original OP Nos. 2 and 3, i.e. Director of Health Services and the State of Tripura shall pay the rest 50 percent of the awarded compensation to the original petitioners.

4. There are certain admitted undisputed facts. Those are:-

"4.1. Original OP No. 1 Dr. Bata Krishna Paul is a specialist Ophthalmologist, a medical officer attached with IGM Hospital under the original OP Nos. 2 and 3. The original petitioner of Lok Adalat(PUS) No. 4 of 2007, Laxmi Bala Paul attended the private chamber of Dr. Bata Krishna Paul on 24.01.2006 for cataract problem and as per advice of Dr. Paul she got admitted herself at IGM Hospital on 03.06.2006 for cataract operation under Dr. Paul. Similarly, the original petitioner, Narayan Chandra Saha of Lok Adalat Case(PUS) No. 6 of 2007 attended the private chamber of Dr. Bata Krishna Paul on 20.03.2006 for similar cataract problem and he was also advised to admit at IGM Hospital by Dr. Pal and accordingly he admitted in the hospital on 03.06.2006. Dr. Paul has done cataract operation of both the original petitioners on 05.06.2006, in the right eye of Laxmi Bala Paul and in the left eye of Narayan Chandra Saha. They were discharged from the hospital on 06.06.2006 with advice to attend the OPD after a week.

4.2. It is also an admitted rather an undisputed fact that on 07.06.2006 both the original petitioners having severe complication in the operated eyes attended the hospital and Dr. Paul examined the patients and found postoperative Endophthalmitis developed in the operated eyes of the patients and that for managing such patients Tertiary Eye Care Centre is required which is not available at IGM Hospital and therefore Dr. Paul immediately referred both the original petitioners to Sankardeva Netralaya, Guwahati for further treatment which is a referral hospital for the purpose. Both the original petitioners attended Sankardeva Netralaya on 08.06.2006 and preliminary examination and treatment were done and they also attended on 09.06.2006 and they were admitted in the hospital and on 12.06.2006 the affected eyes of both the original petitioners were operated out/removed and a plastic eye was fitted and therefore the petitioners became blind of one eye."

5. The original petitioners alleged negligence on the part of the surgeon Dr. Bata Krishna Paul for the loss of their eyes and also alleged that original OP Nos. 2

and 3 being the authorities of original OP No. 1 were also responsible for the loss of eyes of the original petitioners.

6. The original OPs contended that there was no negligence or deficiency of service on the part of the surgeon Dr. Paul or other staff of the hospital who attended the patients, i.e. the original petitioners at the time of surgery. All preoperative and postoperative care was taken. All necessary medical tests and examinations were done before operation and the operations were successful having no complication. All postoperative measures were also taken and after operation the condition of the original petitioners was normal and satisfactory and also free from any complication and therefore they were discharged from the hospital on 06.06.2006 in the afternoon with necessary instructions to attend Eye OPD of IGM Hospital after a week for checkup. But on the following day, i.e. on 07.06.2006 the original petitioners again admitted in the hospital with postoperative complications and on examination it was found that postoperative Endophthalmitis developed for which treatment was not available in IGM Hospital and so on that day itself they were referred to Sankardeva Netralaya, Guwahati which is the referral hospital of the State. Therefore, there was no negligence on the part of the writ petitioners, i.e. the OPs and Lok Adalat wrongly and illegally awarded compensation to the original petitioners.

7. The Lok Adalat while deciding the dispute formulated five issues for discussions and decision. Those are--

"i. Is the proceeding maintainable in law?

ii. Had the opposite-party No. 1 negligence or deficiency in service in rendering treatment to the petitioners?

iii. Was there any postoperative infection (Endophthalmitis) after cataract surgery or any kind of postoperative complication suffered by the petitioners? If so, whether such complication was caused due to lack of due care and attention of the opposite-party No. 1 at the time of operation or otherwise?

iv. Is the petitioners entitled to any relief as prayed for?

v. To what relief/reliefs the petitioners are entitled?"

8. Both side adduced oral and documentary evidence. In course of hearing the Permanent Lok Adalat proposed both the parties as per Sub-section (7) of Section 22(C) of the Legal Services Authorities Act for a settlement since the Lok Adalat found elements of settlement of the dispute but the parties failed to settle up the quantum of settlement amicably and therefore the Lok Adalat passed the impugned award as per Sub-Section (8) of Section 22(C).

9. Section 22(E) of the Legal Services Authorities Act prescribes that every award of the Permanent Lok Adalat made under that act either on merit or in terms of settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

10. The award made by Lok Adalat is therefore final and there is no provision for changing it by filing any appeal or revision.

11. The writ petitioners, i.e. the original OPs challenged the judgment of the Lok Adalat on the ground that there is neither pleading nor evidence of medical negligence on the part of the surgeon Dr. Bata Krishna Paul who conducted the cataract surgery. No negligence also alleged on the part of the IGM Hospital and therefore the decision of the Lok Adalat directing payment of award was altogether wrong and not tenable.

12. Learned senior counsel, Mr. Chakraborty appearing for the petitioners of WP(C) No. 36 of 2010 and WP(C) No. 38 of 2010 and learned counsel, Mr. D. Bhattacharji appearing for the petitioner of WP(C) No. 255 of 2009 and WP(C) No. 256 of 2009 submitted that the original petitioners failed to prove medical negligence on the part of the OPs. The Lok Adalat arrived at a theoretical conclusion, not based on any legal evidence and hence the decision of the Lok Adalat is liable to be interfered and set aside. It is also submitted by learned counsel of the petitioners that neither any expert opinion was taken in respect of any negligence on the part of the surgeon or hospital nor anything was reported by the Sankardeva Netralaya regarding any negligence on the part of the petitioners and so the finding of the Lok Adalat cannot stand and is liable to be set aside. Learned senior counsel, Mr. Chakraborty relied on the decision of the apex Court in the case of Martin F. D''Souza Vs. Mohd. Ishfaq, .

13. Learned counsel, Mr. Saha appearing for the original petitioners submitted that the petitioners are laymen and they lost their eyes, definitely for the fault of the surgeon who conducted operation and it is the surgeon to say as to what was the reason for which the operated eyes were infected and postoperative Endophthalmitis was developed. Since the opposite parties failed to give reasons for such postoperative Endophthalmitis they must be held responsible for the loss of eyes of the original petitioners and a meager compensation has been awarded by the Lok Adalat which may not be interfered by this Court in exercise of its plenary power under Article 226.

14. It is an admitted position that on the very following day of their discharge from hospital the original petitioners again appeared in the hospital with severe complication in their operated eyes. Original OP No. 1 Dr. Paul after examination of the petitioners found postoperative Endophthalmitis and immediately referred them to Sankardeva Netralaya, Guwahati. It is the stand of the original OP Nos. 2 and 3 that after the advocate notice was served by the original petitioners'' engaged lawyer, an Inquiry Committee was constituted by the original OP Nos. 2 and 3 consisting of Dr. P.N. Singh, Prof. & HOD, Anesthesiology Department, AGMC, Agartala, Dr. W. Gopimohan Singh, Prof. & HOD, Surgery Department, ADMC, Agartala and Dr. Phani Sarkar, Asstt. Prof. Ophthalmology, AGMC, Agartala and they submitted a report after an inquiry on the issue. Original report has been proved as Exbt.D on behalf of the original OP Nos. 2 and 3 in Lok Adalat(PUS) No. 6 of 2007. The comment of the inquiry committee in Exbt.D

reads thus:

"1. Even in the advanced centres, the percentage of postoperative endophthalmitis after cataract surgery is 0.1 to 0.2.

2. As per record of the last year(16.05.05 to 16.06.06) the percentage of post operative endophthalmitis after cataract surgery in IGM Hospital, is only 0.07(because of the above mentioned two cases), which shows that lower incidence than in the advanced centres.

3. As Sri Narayan Chandra Saha was known patient of Diabetes Mellitus(DM), he should have been hospitalized for a few more days instead of discharging him on the next day of operation. The investigation of blood sugar should have been repeated on the 1st postoperative day to help further necessary treatment. At the same time, the pre-operative blood sugar status of the patient, just one day ahead of the operation, should have been done for proper preparation and management. Chance of infection is always high in DM patients."

The original petitioners therefore cannot say or take a stand that no expert opinion was taken on the issue.

15. The Supreme Court in the case of Martin F. D''Souza(supra) relying on the observation made by the apex Court in the case of Jacob Mathew Vs. State of Punjab and Another, has observed:

"117. We, therefore, direct that whenever a complaint is received against a doctor or hospital by the Consumer Fora(whether District, State or National) or by the Criminal Court then before issuing notice to the doctor or hospital against whom the complaint was made the Consumer Forum or Criminal Court should first refer the matter to a competent doctor or committee of doctors, specialized in the field relating to which the medical negligence is attributed, and only after that doctor or committee reports that there is a prima facie case of medical negligence should notice be then issued to the concerned doctor/hospital. This is necessary to avoid harassment to doctors who may not be ultimately found to be negligent. We further warn the police officials not to arrest or harass doctors unless the facts clearly come within the parameters laid down in Jacob Mathew''s case (supra), otherwise the policemen will themselves have to face legal action."

16. In view of Exbt.D proved on behalf of OP Nos. 2 and 3 in Lok Adalat(PUS) No. 6 of 2007 it cannot be said that no prima facie opinion of medical negligence was taken. The inquiry committee has observed that during the period from 16.05.2005 to 16.06.2006 about 2874 cataract surgery was done in IGM hospital and two patients, i.e. the original petitioners only developed postoperative Endophthalmitis. In course of enquiry on 18.12.2006 random swab culture tests from different areas of concerned Eye OT were done and the result shows that sterility of the Eye OT was maintained.

17. Admittedly, the petitioners were operated on 05.06.2006. What was the condition of sterility on the date of surgery there was no observation to that

effect. The observation of the expert committee regarding sterility on 18.12.2006 cannot prove the fact that on the date of surgery, i.e. on 05.06.2006 sterility of the OT was properly maintained. The OPs only stated that all preoperative and postoperative care taken by the OPs but what steps were taken has not been elaborated before the Lok Adalat. The expert committee, on which the original OPs relied, in their comments as reproduced above did not make any indictment in respect of the original petitioner, Laxmi Bala Paul. But in paragraph 3 of the comments it has made a clear indictment against the surgeon/hospital that the original petitioner, Narayan Chandra Saha is a known patient of Diabetes Millitus and he should have been hospitalized for more few days instead of discharging him on the next day of operation and that preoperative blood sugar status of the patient was not taken one day ahead of the operation. This observation of the expert committee is a prima facie observation of negligence on the part of the surgeon who conducted the operation.

18. The original petitioner, Laxmi Bala Paul was an old lady of 70 years and she did not complain for any complication at the time or after the surgery but original petitioner, Narayan Chandra Saha stated that he felt tremendous pain immediately after the surgery and on the following day when he was brought to the hospital there was oozing of blood from his operated eye and that has been reiterated in the report of the expert committee also.

19. It is true that no medical negligence has been alleged by the Sankardeva Netralaya in the discharge summery. The discharge summery of Sankardeva Netralaya in respect of original petitioner Laxmi Bala Paul has been proved on behalf of respondent OP Nos. 2 and 3 as Exbt-K which reads as follows:

"Laxmi Bala Paul(SSN MRD No. : 213356/2006) a 70 years old lady, from Agartala presented to our OPD on 08-06-2006 with the history of having undergone ECCE + PC IOL in the right eye on 06-06-2006 elsewhere. On the first post operative day she developed pain in the operated eye, foreign body sensation, along with headache, nausea ad vomiting. Her previous medical and surgical histories were unremarkable.

On examination she had no perception of light in the right eye. Her visual acuity in the right eye was 6/24, N36 which improves upto 6/9 with -2.0D Spherical and near vision improved upto N6 with an Add of +3.0 D Spherical. Her ocular movements were full in both eyes. In the right eye the lids were found swollen, conjunctiva was congested, there was discharge in the forices, there was an epithelial defect on the cornea along with corneal oedema. Anterior chamber, iris, pupil and lens were not visible. The left eye examination showed NS3 + PSC Cataract, rest of the anterior segment was within normal limits. Intra ocular pressure was 14 mm Hg in the right eye and in the left eye it was found to be raised digitally. B-Scan USG of the right eye showed multiple moderate low the moderate reflective echoes in the vitreous cavity, IOL reverberation were noted. Retina was on and Choroid normal. Anterior chamber tap was done which showed plenty of pus cell in Gram stain, no fungal element were seen in KOH

Intra vitreal injection of Vancomycin, Amikacin and Dexamethasone was given. After that the patient was advised oral medications Tab ciprofloxacin(500 Mg) 12 hourly, Tab Diclofenac 1 tab SOS and Tab Rintidine(300 Mg.) once daily with topical medications-Prednesolone acetate eye drops half hourly, Moxifloxacin eye drop 1 hourly Atropin eye drop twice daily and Timolol maleate(0.5%) eye drop 1 drop 12 hourly.

The patient was reviewed on the next day. Anterior segment was found as before. There was no fundal glow. Culture report on 12-06-2006 showed growth of Pseudomonas aeruginosa. Patient was advised Evisceration + ball implant in the right eye which she underwent on 12-06-2006. Patient was started on Injection Taxim(1g), gentamycin 60 Mg IM twice daily and Injection Ketanove 1 amp IM.

On 1st postoperative day socket was found healthy, conformer found in place, and the implant was well covered. Patient was reviewed periodically till 16-09-2006 during which time she had an uneventful postoperative course. Prosthesis for the right side was prescribed on the same date and she was advised review after 3 months."

20. The discharge summery of Sankardeva Netralaya in respect of original petitioner, Narayan Chandra Saha has also been proved on behalf of the original OP Nos. 2 and 3 as Exbt.E which reads as follows:

"Mr. Narayan Chandra Saha(SSN MRD No. : 198708/2006) presented to our OPD on 08-06-2006 with the complaints of pain and dimness of vision following cataract surgery done elsewhere 4 days back.

Patient is diabetic since last 07 years.

On examination his unaided vision in the right eye was found 6/6, N10, acceptance Plano 6/6 with Add + 1.5 DS N6: while Left eye unaided vision was found PL +ve, PR accurate.

Slit lamp examination revealed post sub capsular cataract in the right eye and severe lid oedema, matted eyelashes discharge cilliary + conjunctival congestion and corneal oedema in the left eye.

Intra ocular pressure was found 16 mm Hg by Applanation Tonometer in the right eye and the left eye IOP was digitally normal.

Fundus examination showed normal in the right eye and there was no view in the left fundus.

He was provisionally diagnosed of postoperative Endophthalmitis in the left eye and Diabetes Mallitus.

He was advised to undergo a B Scan USG in the left eye on urgent basis the USG revealed organized low reflective echoes mainly in posterior pole and superior periphery, Retina looked detached in part of inferior quadrant, Retino choroidal

thickness grossly increased, IOL reverberation echoes noted. Optic nerve head cupping suspected.

Immediately the patient was given Intravitreal Injection of Vancomycin + Amikacin. AC taping was done and the specimen was sent for Direct Smear for Gram Stain and KOH and Culture and sensitivity. He was advised Tab Ciprobid 500 Mg, Prednisolone Acetate, Vigamox eye drop, Topin (1%) eye drop, Tab Voveran, Tab Diamox and Lotim 0.5% eye drop.

During next course of follow up on 09-06-2006 his vision in the left eye was found PL-ve with Indirect Ophthalmoscope light.

Slit lamp examination revealed uveal tissue prolapsed at the surgical wound with gross corneal infiltration and corneal melting.

Intra ocular pressure was digitally very high and the fundus stilled remained visible.

Vitreoretinal surgery is not indicated in this stage and no improvement was noted after Intra vitreat1 Antibiotic injection and hence advised to undergo Evisceration + Ball implant(OS) LA.

Following physician''s clearance, evisceration + ball implant(OS) was done on 12-06-2006 and the sample was sent for clinical examination. Post operatively patient was examined on 13-06-2006, 14-06-2006, 16-06-2006 and 17-06-2006. Patient was given prosthesis on 02-08-2006.

The Ractariat Cultural and sensitivity of the AC fan was done on 09-0-2006 revealed : Culture : Pseudomonas Aeurginosa.

Sensitive to Gatifloxacine, Amikacine, Cefatoxime. And Resistant to Ampiciline, Cephalothus, Tetracyclind, Chhloramphenical, Doxycycline, Tobramycine and Oflaxacine.

General clinical examination done on 10-06-2006 revealed FBS : 136 mg/dl, PPBS "298 mg/dl, Hb% : 15.3 gm/dl, Serum Creatinine : 1.3 mg/dl, Glycosylated Hb% : 9.4%, Urine R/E : Albumin : Trace, Pu Cell : 0-2/HPF.

Bacterial culture and sensitivity of the sample(evisceration) was done on 12-06-2006 which revealed Culture : PS-Aeurginosa. Sensitive to Amikacine, Cefataxime(Intermediate). Resistant to Ampicilin, Cephalotine, Tobramycine, Tetracycline, Doxycycline, Chloramphenicol and Gatifloxacine.

Direct Smear examination of the AC Tap of 09-0-2006 revealed Gram stain : Plenty of Pus cells, rbcS, PIGMENT CELLS. Koh : No fungal element. Culture : Gram negative bacilli. Fungal culture showed no growth of fungus after 7 days. Patient was kept under our follow up and called for review and was re-examined on 04-08-2006 while his vision was found 6/9+, N6 with spectacles in the right eye with Acceptance +0.75 DS-6/6 with Add + 1.50 DS-N6. Intra ocular pressure was detected 16 mm Hg by Aplanation Tonometer Fundus showed 0.55-0 Cup

disc ratio, healthy rim and no NFLD.

Diagonal variation of the intra ocular pressure was found with normal limits and the 30-2 test also showed normal study. The patient has been advised to return to clinic for follow up once again after 3 months."

21. It is evident from the above discharge summaries that the operated eyes of both the original petitioners were severely affected when they attended Sankardeva Netralaya. The OPs though stated that there was no negligence or deficiency of service on their part but they have nowhere elaborated as to what services or examinations or precautions were taken at the time of the surgery and thereafter and that there was no responsibility on the part of the surgeon or hospital for postoperative Endophthalmitis. The original OP Nos. 2 and 3 proved certain part of the Text Books and the Lok Adalat referring to those exhibits, i.e. Exbt.E and Exbt.F has observed:

"It is admitted fact that both the petitioners were attacked with postoperative Endophthalmitis caused by infection during or after operation and the question is what are the sources of infection whether the hospital or outside thereof, but the opposite-parties are silent on that point.

A part of a Text Book titled Principles and practice of Ophthalmolog, vol. III edited by Gholam A Peyman, Md. And others has been filed by the opposite-parties No. 2 and 3 in both the cases and marked Ext. E and F and the sources of infection resulting in the postoperative Endophthalmitis have been enumerated in page 599 of the said book as under:

"The principal sources of infection are

i. Air borne bacteria,

ii. Contaminated solutions and medications.

iii. Tissue sources, including the surgeon''s hands and the patients'' eyelids and conjunctival,

iv. Object sources including instrument, drapes and sutures."

It is further observed in the said text book that:

"Prior to any intraoculor procedure a careful examination of the eye should be performed paying particular attention to signs of Blepharitis, conjunctivitis or Daryocystitis. If any of these conditions are noted it should be adequately treated before intraocular surgery."

From the aforesaid observation it is clear that the sources of infection are within the four walls of operation theatre, which may be eradicated before operation."

22. The argument of learned counsel of the original OPs that there is neither pleading nor evidence in support of the observation of the Lok Adalat cannot stand since one cannot expect that Lok Adalat also shall deal with the disputes

like an ordinary civil Court.

23. A Lok Adalat means a people''s Court. It is an effective, efficient and important alternative dispute resolution mechanism providing informal and expeditious justice to common man. Complicated and cumbersome procedural law is not application in Lok Adalat. Any person can approach a Lok Adalat on a dispute either in writing or even orally and the oral complaint may be reduced to writing. There is no rule that unless specific pleading and evidence in respect of the pleading is adduced, Lok Adalat cannot grant relief.

24. Admittedly, the dispute is regarding a public utility service. The original petitioner attended the private chamber of the original OP No. 1 Dr. Bata Krishna Paul and as per his advice admitted in the hospital for cataract operation. What was the preoperative and postoperative care and measure taken has not been elaborated by the original OPs. What tests or examinations were done also has not been stated. Regarding the condition of operation theatre, i.e. OT table, operating microscope, OT lamp, etc. nothing stated by the original OPs. The laymen petitioners cannot be expected to give evidence in respect of the care, preoperative or postoperative, taken by the original OPs. I, therefore find no force in the argument of the learned counsel, Mr. Chakraborty and Mr. Bhattacharji that the original petitioners failed to prove their case and the Lok Adalat arrived at a perverse finding. While the Lok Adalat has considered the evidence and materials of both side and there is prima facie evidence in support of arriving at a decision at least in respect of the original petitioner, Narayan Chandra Saha, I think the power of judicial review by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India is very limited.

25. It is a settled law that the power of judicial review in respect of a domestic tribunal or other adjudicatory or conciliatory body is very limited. Judicial review is possible only when the principals of natural justice have been violated i.e. the opportunities which ought to be given to the opposite parties were not given or that the decision was based on no evidence. If there is no glaring violation of principals of natural justice and if there is some evidence to support the decision taken by the domestic tribunal or the adjudicatory/conciliatory body, the High Court cannot sit as a matter of appeal to re-appreciate the evidence and to substitute the finding of such body or authority with its own finding.

26. The Lok Adalat considering the evidence and materials on record awarded compensation of Rs. 2.00 lakhs to Smti. Laxmi Bala Paul, the original petitioner of Lok Adalat(PUS) No. 4 of 2007. The medical expert committee constituted by the original OP Nos. 2 and 3 did not give any prima facie opinion in respect of the case of Laxmi Bala Paul and therefore the decision of the Lok Adalat for payment of compensation to Smti. Laxmi Bala Paul cannot stand and is liable to be set aside.

27. In respect of Sri Narayan Chandra Saha, the Lok Adalat considering all aspects awarded a lump sum amount of Rs. 3.00 lakhs to be paid equally, i.e.

50% by the original OP No. 1 and 50% by original OP Nos. 2 and 3. Since the medical expert committee observed prima facie negligence in respect of the original petitioner, Narayan Chandra Saha and since on the basis of the materials on record the Lok Adalat arrived at a finding of negligence on the part of the original OPs and awarded some monetary compensation for the loss of eye of Sri Narayan Chandra Saha, I find no reason to interfere in the decision.

28. Accordingly, writ petitions being WP(C) No. 255 of 2009 and WP(C) No. 36 of 2010 are allowed. The award made by the Lok Adalat in favour of the original petitioner, Laxmi Bala Paul is set aside. WP(C) No. 256 of 2009 and WP(C) No. 38 of 2010 are dismissed. The direction and award given by the Lok Adalat for payment of compensation to original petitioner, Narayan Chandra Saha is upheld.

29. Accordingly, the writ petitions stand disposed of. Send back the records of the Lok Adalat with a copy of this judgment.

