

(2013) 01 RAJ CK 0036

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 678 of 2009

Bhagwan Sahai

APPELLANT

Vs

Hari Prasad and Others

RESPONDENT

Date of Decision : 29-01-2013

Acts Referred:

Citation : (2013) 01 RAJ CK 0036

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Advocate : Sandeep Mathur, for the Appellant; Jitendra Mishra, Counsel, for the Respondent

Final Decision : Partly Allowed

Judgement

Mahesh Chandra Sharma, J.—The instant appeal has been filed by the claimant appellant against the judgment and award passed by MACT.

At the very outset, learned counsel for the appellant submits that the learned Tribunal while passing the impugned award has not taken into consideration the objections which he has raised by way of the aforesaid appeal. The finding of the learned Tribunal on issue no. 4 is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal qua issue no. 4 be quashed and set aside and the matter be remanded to the learned Tribunal with the direction to decide the matter afresh qua issue no. 4 in the light of objections which he has raised by way of the aforesaid appeal and the documents, which have been placed by him on record. In support of his contentions, he has placed reliance on the following judgments:

i) Kavita Vs. Deepak and Others,

ii) Govind Yadav Vs. The New India Insurance Company Limited,

2. E. Converso, the learned counsel for the respondents defended the impugned award and stated the same to be just and apposite.

3. I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

4. In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this Court.

5. In the result, this civil misc. appeals is partly allowed and the impugned judgment and award dated 18.9.2003 passed by Motor Accident Claims Tribunal, qua issue no. 4 is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh qua issue no. 4, as early as possible, in the light of the grounds raised by the learned counsel for the appellant in the instant appeal and the documents placed by him on record as also the aforesaid judgments, if applicable, after issuing notice to all the concerned parties and giving opportunity of hearing to them.

6. Both the parties are directed to appear before the learned Tribunal on 18.3.2013. However, it is made clear that if any amount has been received by the claimant(s) under the impugned award, the same shall not be recovered from him.