
(2012) 10 MP CK 0100
In the Madhya Pradesh High Court
Case No : Civil Rev. No. 123 of 2012

Chandra

APPELLANT

Vs

Ranveer Singh Ramavtar and Others

RESPONDENT

Date of Decision : 10-10-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Motor Vehicles Act, 1988 — Section 140, 166

Citation : (2012) ILR (MP) 2847 : (2012) 4 MPLJ 537

Hon'ble Judges : Brij Kishore Dube, J

Bench : Single Bench

Advocate : A.K. Mangal, for the Appellant;

Final Decision : Allowed

Judgement

Brij Kishore Dube, J.—This Civil Revision u/s 115 of the Code of Civil Procedure, 1908 is directed against the order dated 13-9-2012 passed in M.J.C. No. 35/2012 by X Additional Motor Accident Claims Tribunal, Gwalior, whereby the application of the revisionists/claimants for release of the amount kept in the FDR of the deceased, Gabbar Singh has been rejected with a direction to the revisionists/claimants to obtain and produce the succession certificate. The facts, in brief, are that revisionists/claimants along with husband of claimant No. 1 and father of claimant No. 2, late Gabbar Singh had jointly filed a claim petition under sections 166 and 140 of the Motor Vehicles Act, 1988 for compensation on account of death of son of claimants, Smt. Chandra and Gabbar Singh and brother of claimant, Ku. Maina, namely; Anand, who died in a motor accident. The claimants (Smt. Chandra, Gabbar Singh and Ku. Maina) succeeded in the claim case and the Tribunal awarded an amount of Rs. 3,73,000/- with cost and interest. Consequently, the Insurance Company deposited the amount with the Claims Tribunal. Out of which Rs. 75,000/- was invested in the name of Gabbar Singh by way of FDR on 17-7-2007 for a period of five years. However, in-between, Gabbar Singh, who is father of the deceased, Anand and claimant No.

2, Ku. Maina and husband of the claimant No. 1, Smt. Chandra met natural death on 1-6-2011. When the heirs (revisionists/claimants), of the deceased, Gabbar Singh applied for disbursement of the amount kept in the FDR, the said application has been rejected by the Additional Motor Accident Claims Tribunal, Gwalior and they were asked to obtain and produce the succession certificate for release of the amount kept in the FDR of Gabbar Singh (since deceased) by the impugned order.

2. Learned counsel for the revisionists submits that the claimants are the legal representatives of the deceased Gabbar Singh as well as deceased Anand, therefore, the learned Claims Tribunal ought not to have insisted for production of succession certificate by the claimants.

3. Having heard learned counsel for the revisionists and going through the impugned order dated 13-9-2012, I am of the considered view that the approach of the learned Additional Motor Accident Claims Tribunal, Gwalior is erroneous and could not be sustained in law. There is no need to direct to obtain and furnish succession certificate especially when there is no claim for the amount in question from any one else.

4. Admittedly, there were only three claimants, namely; parents (Smt. Chandra and Gabbar Singh) and sister (Ku. Maina) of the deceased, Anand and after award was passed in their favour, one of them, i.e., Gabbar Singh had died before disbursement of the amount kept in the FDR. It is not disputed that the revisionists/claimants (Smt. Chandra and Ku. Maina) are the class-I heirs of the deceased, Gabbar Singh.

5. Succession certificate has to be insisted only in cases of debts or securities to which a deceased is entitled. Amount awarded as compensation to an individual can never be treated as debt or security. Therefore, no succession certificate is required to be furnished by the present claimants. The Apex Court in the case of Rukhsana (Smt) and Others Vs. Nazrunnisa (Smt) and Another, held that the amount awarded as compensation, on account of death of an individual, cannot be treated as debt or security and legal heirs of the deceased cannot be asked to obtain and produce succession certificate. The relevant part of the judgment is reproduced as under:-

3. We cannot approve the said view of the High Court, for, Succession Certificate as envisaged in the Indian Succession Act can be granted only in respect of "debts" or "securities" to which a deceased was entitled. The amount involved in this case was not a debt or security to which the deceased was entitled. This was a compensation sanctioned on account of the death of the deceased and is, therefore, not an asset belonging to the deceased but an amount which the legal representatives of the deceased can claim on their own account. The Civil Court will only decide as to who are the legal representatives and in what shares they are entitled to as per the Personal Law applicable to them. The Parties will move appropriate application before the Court concerned for expediting the procedure

regarding disbursement of the amount. With these observations wo set aside the impugned order.

6. In view of the above, this civil revision requires to be and is hereby allowed. The impugned order dated 13-9-2012 passed by the Additional Motor Accident Claims Tribunal, Gwalior is set aside and directed to decide the application preferred by the claimants afresh expeditiously, in accordance with law.