
(2022) 09 RAJ CK 0050

In the Rajasthan High Court

Case No : S.B. Civil Writ Petition No. 17923 Of 2019

Duggi And Others

APPELLANT

Vs

Anil Kumar And Others

RESPONDENT

Date of Decision : 16-09-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Order 23 Rule 1

Citation : (2022) 09 RAJ CK 0050

Hon'ble Judges : Vinit Kumar Mathur, J

Bench : Single Bench

Advocate : Bheru Lal Jat, L.D. Khatri

Final Decision : Disposed Of

Judgement

Vinit Kumar Mathur, J

Although the matter is listed in the 'Orders' category, however, with the consent of learned counsel for the parties, the writ petition is being heard and decided finally today itself.

The present writ petition has been filed against the order dated 11.09.2019 passed by the Motor Accident Claims Tribunal, Jodhpur Metropolitan in Claim Case No.553/2017, whereby the learned Tribunal rejected the application of the petitioners preferred for amendment in the claim application.

Learned counsel for the petitioners submits that by a bonafide error of the counsel for the claimants, it has been mentioned that the offending vehicle was being driven from Baori to Jodhpur whereas it should have been Kherapa to Jodhpur. He submits that learned Tribunal has not appreciated the argument of learned counsel for the petitioners in the right perspective and has wrongly rejected the application preferred for amendment.

Learned counsel for the petitioners submits that in pursuance of the order passed by the Tribunal on 11.09.2019, he may be permitted to file a fresh petition as

mandated under Order 23 Rule 1 CPC, however, the right to contest the award of interest on the compensation may be protected and it may be ordered that in case a fresh claim application is preferred and the award of compensation is awarded in favour of the claimants, then the same shall be computed from the date of first claim application preferred by the claimants.

Learned counsel for the respondents is not in a position to controvert the submissions of learned counsel for the petitioners with respect to the entitlement of the award to be computed with effect from the date of filing of the first claim application, if the Tribunal passes an award in favour of the claimants after the final adjudication. He further submits that even as per the order dated 11.09.2019, the learned Tribunal has given liberty to the petitioners to file a fresh claim application with the correct facts.

In view of the submission made before this Court, the petitioners claimants is permitted to withdraw the claim application preferred and to file a fresh claim application before the Tribunal stating the correct facts as permitted by the Tribunal in its order dated 11.09.2019.

In the event of filing of the fresh claim petition by the petitioners, the learned Tribunal shall adjudicate the same in accordance with law and if the claim application is decided in favour of the petitioners and the award of compensation is awarded, then for the purpose of computation of the interest, the date of filing the first claim application will be taken into consideration.

The writ petition stands disposed of in the above terms.