
(2009) 07 DEL CK 0254

In the Delhi High Court

Case No : MAC. APP. No. 269 of 2009

Master Gagand Deep Oberoi

APPELLANT

Vs

Shiv Shankar and Others

RESPONDENT

Date of Decision : 23-07-2009

Acts Referred:

Citation : (2009) 07 DEL CK 0254

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; Kanwal Choudhary, for the Respondent

Judgement

J.R. Midha, J.—The appellant has challenged the order of the learned Tribunal dated 28th February, 2009 whereby the execution application has been dismissed by the learned Tribunal.

2. The accident dated 25th February, 1994 resulted in the death of Kakoli Oberoi. The deceased was survived by her minor son who filed the claim petition before the learned Tribunal. The learned Tribunal awarded compensation of Rs. 14,58,000/- along with interest @12% per annum from the date of filing of the petition till realization vide award dated 14th May, 1999.

3. Respondent No. 3 challenged the award before this Court vide FAO No. 393/1999 which was admitted on 2nd September, 1999. Vide ex-parte order dated 2nd September, 1999, this Court directed that 50% of the award amount along with proportionate interest be released to the claimants and the remaining 50% of the award amount along with proportionate interest be deposited by respondent No. 3 with the learned Tribunal within eight weeks.

4. In terms of the order dated 2nd September, 1999, respondent No. 3 deposited 50% of the award amount along with proportionate interest which was released to the petitioner. However, according to the learned Counsel for the petitioner, the remaining 50% of the award amount along with interest was not deposited

and, therefore, the petitioner filed CM No. 639/2000 which was disposed of vide order dated 26th July, 2000. It was directed that the remaining 50% of the award amount be paid over to the petitioners on furnishing of the security to the satisfaction of the learned Tribunal.

5. The learned Counsel for the petitioner submits that he did not receive any notice of deposit made in terms of the order dated 26th July, 2000.

6. Vide order dated 9th January, 2008, the appeal of respondent No. 3 was dismissed by this Court.

7. On 20th August, 2008, the petitioner filed the execution before the learned Tribunal in pursuance to which respondent No. 3 deposited Rs. 12,28,165/- on 5th December, 2008. The petitioners have withdrawn the said amount.

8. According to the learned Counsel for the petitioner, respondent No. 3 has paid the interest on 50% of the award amount up to July, 2000 and the interest from July, 2000 to December, 2008 is due and payable which amounts to Rs. 7,42,210/-.

9. There is no dispute that the entire award amount has been paid by respondent No. 3. The dispute is with respect to the payment of interest on 50% of the award amount from July, 2000 to December, 2008.

10. The learned Tribunal has not considered the contentions raised by the petitioner and has also not given any reasons in the impugned order. The petitioner's execution application has been dismissed by an unreasoned cryptic order.

11. In view of the above, the impugned order dated 28th February, 2009 is set aside and the matter is remanded back to the learned Tribunal to consider the matter afresh after hearing both the parties and pass a reasoned order dealing with all the contentions raised by the petitioner. Nothing contained herein be construed any opinion on the merits of this case.

12. The parties are directed to appear before the learned Tribunal on 20th August, 2009.

13. Copy of this order be given "Dasti" to learned Counsel for the parties under the signature of Court Master.