(2019) 07 RAJ CK 0049

In the Rajasthan High Court

Case No : Civil Writ Petition No. 10187 Of 2019

M/s Bansal Credits Ltd	APPELLANT
Vs	
Sukhdev Singh And Ors	RESPONDENT

Date of Decision : 16-07-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 9 Rule 13

Citation : (2019) 07 RAJ CK 0049

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Manish Sharma

Final Decision : Disposed Off

Judgement

Present writ petition is directed against orders dated 13.03.2019 and 11.06.2019 passed by Motor Accident Claims Tribunal, Merta.

The facts relevant for the present purposes are that the learned Tribunal passed an award on 21.11.2017 and held the petitioner-finance company

(respondent No.4 in the claim petition) to be liable for amount of Rs.11,14,480/- awarded by it.

Subsequent thereto, the petitioner moved an application dated 03.12.2018 under Order IX rule 13 of the Code of Civil Procedure, inter alia, pointing out

that notices of the Claim Petition were not served upon it and the Tribunal proceeded ex parte, on the presumption of service.

The claimants filed written reply dated 16.01.2019 to petitionerâ??s application moved under Order IX rule 13 CPC; but later expressed their â??No

Objectionâ?? vide application dated 13.03.2019, and prayed that the award dated 21.11.2017 be set aside and the petitioner be given opportunity of

hearing, albeit, with the condition that the petitioner finance-company be asked to deposit an FDR of the awarded amount i.e. Rs.11,14,480/- with the

Tribunal.

On the application so filed by claimants (Annx.6), petitionerâ??s Authorized Representative gave no objection on 13.03.2019.

In view of the No Objection made by petitionerâ??s Authorized Representative and in view of application filed by the claimants, the learned Tribunal

below passed order dated 13.03.2019, setting aside the ex parte award dated 21.11.2017, subject to a condition that the petitioner would tender an

FDR of the awarded amount for a period of one year, on or before 18.04.2019.

Learned counsel for the petitioner submitted that well before the due date given by the Tribunal, the petitioner moved a Review application and pointed

out to the Tribunal that the consent given by its Authorized Representative was not consent to deposit FDR of awarded amount, but the â??No

Objectionâ?? was marked as a token of receipt of the reply.

The Tribunal below, however, rejected petitionerâ??s Review application vide its order dated 11.06.2019, inter alia, holding that the same does not

fall within the scope of review and if the petitioner in any way feels aggrieved of order dated 13.03.2019, it should take appropriate legal remedy

available to it.

Learned counsel for the petitioner, assailing the orders dated 13.03.2019 and 11.06.2019 passed by the Tribunal, submitted that while allowing

petitionerâ??s application filed under Order IX rule 13 of the Code of Civil Procedure, the Tribunal has imposed an un-conscionable condition of

depositing the entire amount of award, without considering the fact as to whether the petitioner is likely to be held responsible for the claim or not. He

further argued that if the petitioner is required to deposit such huge amount, his right to contest the claim petition will be rendered illusory.

Having heard the learned counsel and upon perusal of the order passed by the Tribunal, this Court is not inclined to exercise its extraordinary

supervisory & discretionary jurisdiction, given the present factual backdrop.

A perusal of the order dated 13.03.2019 passed by the Tribunal below makes it abundantly clear that though the petitioner is required to deposit a sum

of Rs.11,14,480/- in the form of FDR and there is no stipulation regarding disbursement of the amount of FDR to the claimants. This being the position, petitionerâ??s rights are well safe-guarded and if stand of the petitioner is ultimately accepted by the Tribunal, the Tribunal will naturally pass

appropriate order, returning the FDR to it.

During the course of arguments, learned counsel for the petitioner submitted that the impugned order dated 13.03.2019 be suitably modified and in

place of whole awarded amount, the petitioner may be required to pay 50% of the amount.

This request of the petitioner can not be acceded to at this juncture, in absence of the other necessary parties.

However, since the petitioner has not deposited the FDR so far, which was required to be furnished by 18.04.2019; he may do so by 20th August

2019. On furnishing FDR of the requisite amount, the order dated 13.03.2019, passed by the Tribunal shall be treated to have been duly complied with

and the Tribunal shall proceed to decide the claim petition in accordance with law.

The present writ petition stands disposed of accordingly.

The stay petition also stands disposed of.