
(2003) 08 GAU CK 0002

In the Gauhati High Court

Case No : Writ Petition (C) No. 199 of 2003 and 444 and 561 of 2000

National Insurance Company Ltd.

APPELLANT

Vs

Anurupa Debbarma and Others

RESPONDENT

Date of Decision : 01-08-2003

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2004) 1 ACC 665 : (2005) ACJ 955 : (2003) 3 GLR 608

Hon'ble Judges : T. Vaiphei, J

Bench : Single Bench

Advocate : A. Lodh, D.K. Biswas and K. Bhattacharjee, for the Appellant; S. Deb (Jr.), B. Debnath and P.K. Biswas, for the Respondent

Final Decision : Dismissed

Judgement

T. Vaiphei, J.—These three writ petitions are disposed of by this common order in the circumstances mentioned hereinbelow.

2. Heard Mr. A. Lodh, learned counsel appearing for the petitioner and Mr. S. Deb (Jr.), learned counsel appearing for the respondents in W.P. (C)No. 199 of 2003.

3. It is agreed by both the Counsel of the petitioner and the respondents that this writ petition be disposed of at the Motion stage. In the course of hearing of this writ petition Mr. D.K. Biswas, learned counsel for the New India Assurance Co. Ltd. in W.P. (C) No. 444/2000 intervenes and prays that his case may also be heard and disposed of alongwith this writ petition. Mr. P. K. Biswas, learned counsel for the respondents claimants also appears and has no objection to the prayer made by Mr. Biswas.

4. Similarly, Mr. K. Bhattacharjee, learned counsel for the National Insurance Company - petitioner in W.P. (C) 561/2000 also prays for disposing of the writ petition, which has earlier been admitted, along with the instant writ petition and Mr. P.K. Biswas, learned counsel is appearing for the respondents-claimants has no objection to the prayer made by Mr. Bhattacharjee.

5. In Writ Petition No. 199 of 2003, the petitioner - Insurance Company challenges the award dtd. 2.9.2002 passed by the learned Member, Motor Accident Claims Tribunal, Khowai, West Tripura in TS (MAC) 72 of 2002. The claimants, respondents herein, have filed a claim petition before the said Tribunal for payment of compensation u/s 166 of the M.V. Act of Rs. 25,53,000 for the death of the deceased Yoddhamani Debbarma. In this case, the deceased Yoddhamani Debbarma died on 26.3.2001 by a motor accident. The deceased Yoddhamani Debbarma was 34 years old at the time of his death and he was an employee of United Bank of India and drawing a monthly salary of Rs. 10,317. The Motor Accident Claims Tribunal awarded compensation of Rs. 14,10,112 which should carry interest @ 8,5% per annum from the date of claim. Aggrieved by the said award, the petitioner - Insurance Company has come up before this Court by way of writ petition under Article 227 of the Constitution.

6. The Writ Petition No. 444/2000 arose out of the award dated 1.8.2000 passed by the Motor Accident Claims Tribunal, West Tripura, Agartala in T.S. (MAC) No. 375/1996. In this case, the deceased Sanjib alias Sanjit Debbarma died due to a vehicular accident on 23.7.1996. His legal representatives filed the claim petition claiming compensation of Rs. 6,80,000. The deceased was 25 years old at the time of his death and he was a cultivator by occupation earning Rs. 3,500 pre month. The Tribunal awarded Rs. 3,08,000 by way of compensation with interest @ 11% per annum with effect from the date of filing of the claim petition. Dissatisfied with the award, the petitioner - Insurance company has filed this writ petition under Article 226 of the Constitution.

7. In W.P.(C) No. 561/2002, the petitioner - Insurance Company filed this petition under Article 227/226 of the Constitution challenging a part of the award passed by the Motor Accident Claims Tribunal in T.S. (MAC) 375/1996. In this case, the legal representatives of the deceased who died by a vehicular accident on 23.7.99, filed a claim petition before the Tribunal claiming Rs. 6,80,000. The deceased was 25 years old boy who was a cultivator and earning Rs. 3,500 per month. The Tribunal awarded Rs. 3,08,000 along with the interest @ 11% per annum. Aggrieved by the award, the petitioner has now come up before this Court under Article 227 of the Constitution.

8. On hearing the learned counsel of all the parties, the short question to be decided in these cases is in respect of the maintainability of the writ petition. The Counsel appearing for the respondents in all the three cases have vehemently argued that in view of the decision of the Apex Court in *Sadhana Lodh Vs. National Insurance Company Ltd. and Another*, all these three writ petitions are liable to be dismissed. On the other hand, Mr. A. Lodh, learned counsel for the petitioner in W.P.(C) 199/03 contends that the Apex Court in *Sadhana Lodh's* case does not preclude the High Court from exercising its jurisdiction under Article 227 of the Constitution if the award made by the Tribunal is not a just compensation as enshrined in Section 168 of the M.V. Act. He also submits that where the amount of multiplicand is a high amount, a lower multiplier can

appropriately be applied in deviation of the 2nd Schedule to the M.V. Act. Equally, where the amount of multiplicand is a low amount, a higher multiplier can appropriately be applied in deviation of the 2nd Scheduled to the M.V. Act as held in United India Insurance Co. Ltd. Vs. Patricia Jean Mahajan and Others Etc. Etc., It is further contended that he is not challenging the quantum of compensation awarded by the Tribunal, but only questioning the procedure of the Tribunal in fixing the multiplier in higher side when the multiplicand is on higher side.

9. I have considered the arguments made by the learned counsel of all the rival parties. Whatever may be the languages employed by the writ petitioners in challenging the impugned awards, I am satisfied that all these writ petitions are in pith and substance directed against the quantum of compensation awarded by the Tribunals in exercise of their jurisdiction. The Apex Court in the case of Sadhana Lodh (supra) has categorically laid down the law that the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution is confined only to see whether an inferior court or tribunal has proceeded within its parameters and not to correct an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision.

10. In view of the law laid down by the Apex Court I am of the view that the instant writ petitions are not maintainable. In other words, whether the compensation is just or not ultimately begets the question as to determination of the quantum of compensation, which is within the parameters of the Tribunals. Therefore, the awards passed by the Tribunals within their jurisdiction cannot be questioned in a writ petition under Article 227 of the Constitution. To accept the contention of the petitioners would certainly result in circumventing the law laid down by the Apex Court or would render the same nugatory. What cannot be done directly cannot be done indirectly.

11. For the aforesaid reasons, the three writ petitions stand dismissed. There shall be no order as to costs. However, it would be open to the Insurer to file an appeal or revision if it is permissible under the law. Stay order passed earlier stand vacated. All the writ petitioners / Insurance companies are directed to deposit the balance amount to this Registry within a period of one month for payment to the respective claimants in accordance with the conditions made by the respective Tribunals.