

(2005) 09 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 131 of 2003

New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Manoj Kumari and Others

RESPONDENT

Date of Decision : 09-09-2005

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2006) 142 PLR 257 : (2006) 1 RCR(Civil) 533

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : Paul S. Saini, for the Appellant;

Final Decision : Dismissed

Judgement

Viney Mittal, J.—The present petition under Article 227 of the Constitution of India has been filed by M/s New India Assurance Company Limited (hereinafter referred to as the "Insurance Company"). The challenge is to the order dated November 22, 2002 passed by the Motor Accidents Claims Tribunal, Gurgaon whereby the application filed by the petitioner Insurance-Company for setting aside the award dated August 3, 2002 has been dismissed.

2. A claim petition was filed by the claimant-respondents claiming compensation of Rs. 18,00,000/- on account of death of Narender Kumar in motor accident which occurred on November 1, 2000. It was claimed that the aforesaid accident had occurred due to rash and negligent driving of driver, Pop Singh.

3. In the claim petition, the claimants had led their evidence. At that stage, a settlement took place between the parties and it was agreed that the Insurance Company would pay a compensation of Rs.9,60,000/- to the claimants within two months from the date of the order dated August 3, 2002 failing which the interest of 9% per annum would become payable from the date of filing of the petition till realisation. Although the Insurance-Company had entered into the aforesaid settlement but it was subject to the approval of the higher authorities

of the Insurance Company. Statements of Claimants and Shri Umesh Gupta, Senior Divisional Manager of the Company was recorded in this regard. On the statements of the parties, an award dated August 3, 2002 was passed by the learned Motor Accidents Claims Tribunal, Gurgaon.

4. Subsequently, an application was filed by the Insurance Company claiming that it had forwarded the claim file to the competent authority for grant of approval but the necessary approval for settlement had not been granted by the competent authority. Accordingly, it was claimed that the award dated August 3, 2002 passed by the Tribunal was required to be recalled.

5. This application was contested by the claimants. It was pleaded by them that Insurance-Company was only trying to delay the grant of compensation in favour of the claimants who had suffered the loss of the only bread earner of the family.

6. The learned Tribunal vide its order dated November 22, 2002 has dismissed the application filed by the Insurance-Company. The aforesaid order has been impugned by the Insurance-Company, through the present revision petition.

7. I have heard Shri Paul S. Saini, learned counsel appearing for the petitioner-company and with his assistance have also gone through the record of the case.

8. Shri Saini has primarily argued that a settlement had been entered into by the Senior Divisional Manager of the Company on behalf of the petitioner-Company but the aforesaid settlement was subject to the approval of the higher authorities and since the aforesaid approval had not been granted, therefore, the award dated August 3, 2002 was required to be recalled.

9. I have given my thoughtful consideration to the aforesaid contentions of the learned counsel for the petitioner but find myself unable to agree with the same.

10. Although a perusal of the award dated August 3, 2002 does show that the settlement had been made by Shri Umesh Gupta, Senior Divisional Manager of the Insurance-Company agreeing to pay the compensation of Rs.9,60,000/- to the claimants and that the aforesaid settlement was subject to the approval of the higher authorities of the respondents but still the award dated August 3, 2002 has been passed by the learned Tribunal on the basis of the statements of the claimants as well as Shri Umesh Gupta. In this view of the matter, once an award had been passed by the learned Tribunal accepting the said settlement, then the aforesaid award was neither contingent nor conditional to any approval which was required to be granted by the higher authorities of the Insurance-Company. Accepting the aforesaid argument of the learned counsel would actually mean subjecting the proceedings before the learned Tribunal to the control of the Officers of the Insurance Company. This cannot be accepted. Due sanctity was required to be given to the decrees and awards of the Courts/Tribunal. Whereas for some justifiable reasons, the decrees/awards passed by the competent Courts/Tribunal can be recalled/set aside but the same cannot be done merely on the desire or whims of a litigant party. The Insurance-Company

was pleaded as respondent No. 3 in the claim petition, It would, therefore, mean that all the officers of the Insurance Company, including the higher authorities were before the Court through respondent No. 3. The statement made by the Senior Divisional Manager of the Insurance Company on behalf of respondent No. 3 would bind the Company completely. The said statement could not be permitted to be withdrawn merely because, some higher authorities had chosen not to accept the settlement. No reasons have been spelt out in the application or in the present revision petition on behalf of the Insurance-Company as to why the necessary sanction had not been granted to the aforesaid settlement between the parties.

11. At this stage, it may also be noticed that the learned Tribunal in its impugned order has noticed that at the time of the aforesaid amicable settlement, the claimants had already led substantial evidence. They had produced the salary certificate of the deceased Narender as Ex.P1 which had been proved by PW2 N.N. Yadav, Manager, Bharti Telecom Limited. Accordingly, it was proved that the deceased was drawing a gross salary of Rs.9521/- per month. The deceased was aged 30 years at the time of accident. In these circumstances, even if the monthly dependency of the deceased is counted as Rs.6,000/-, then his annual dependency would come to Rs.72,000/- and since the deceased was 30 years of age only at the time of accident, a multiplier of 17 would be wholly justified, (reference in this regard may be made to various judgments reported as State of Haryana Vs. Amandeep Singh, , Sachdeva Rice Mills and Others Vs. Smt. Raj Anand and Others, and Shri Keval Mehra Vs. Shri Jai Paul Singh and Others, and a judgment of the Apex Court in U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, . In such a situation, the compensation which would have become payable to the claimants would be Rs. 11,24,000/-. The settlement had been arrived at Rs. 9,60,000/- i.e. substantially below the amount which the claimants would have got after the contest. It, thus, appears that the petitioner-Company and its higher authorities have offered the present resistance with a view to defeat the delay the cause of the claimants. The Court cannot become a party to the aforesaid obstruction offered by the petitioner-company.

12. In view of the aforesaid discussion, I do not find any merit in the present petition. The same is, therefore, dismissed. 13. Before parting with this order, it is directed that the petitioner-Company shall now release the entire payment of compensation along with interest as payable forthwith.