
(2003) 09 PAT CK 0159
In the Patna High Court
Case No : C.W.J.C. No. 2997 of 2003

Oriental Insurance Co. Ltd.	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 15-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2004) 2 PLJR 236

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Aftab Alam, J.—Heard counsel for the Petitioner and for the different sets of Respondents, including Respondents 5 and 6, the claimants.

2. The Petitioner M/s. Oriental Insurance Company Limited has filed this petition under Articles 226 and 227 of the Constitution challenging the order, dated 25.4.2000 passed by the Additional Dist. and Session Judge I, Katihar in Claim Case No. 21 of 1994. By the impugned order, the Court below has directed the Petitioner to pay to the claimants (Respondents 5 and 6) the balance amount of Rs. 62,500/- under the award of the Lok Adalat in purported correction/ amendment of the Adalat's award.

3. This case brings to the Court an instance of gross carelessness that must be deeply regretted. It is all the more disquieting that a mistake of this kind occurred in the Court system and it is most unfortunate that the mistake took place in a proceeding before the Lok Adalat. Mr. S.K. Yadav, Government Advocate appearing for the State in this case is quite right in his submission that mistakes and negligence of this kind are bound to adversely affect the credibility of Lok Adalats and if the Lok Adalat failed to gain the confidence of the people then not much would be left of the movement of dispute resolution through negotiations, conciliation and settlement.

4. this Court can only hope and trust that in future the officers presiding over Lok Adalats would be more careful and mindful of the records and will not pass an order or award that would make the proceeding before the Lok Adalats a waste of time and energy and a travesty of justice.

5. The facts of the case are simple and without much controversy. One Dinesh Prasad Mandal (the brother of Respondent No. 5 son of Respondent No. 6) died in a motor vehicle accident on 4.5.1994 He was travelling on a bus, bearing registration No. BRK 4797 from Katihar to Manihari. This bus had a head-on-collision with another bus, bearing registration No. BEK 9255. Dinesh Pd. Mandal is said to have died as a result of the accident. The bus in which the deceased was travelling was insured with the Oriental Insurance Company Limited, the Petitioner before this Court and the other bus with which it had the collision was insured with the National insurance Company (Respondent No. 4 in this case).

6. Respondents 5 and 6 instituted Claim Case No. 21 of 1994 before the Motor Vehicles Claims Tribunal, Katihar. In the claim petition only M/s Oriental Insurance Company Limited (the present Petitioner) was impleaded as one of the opp. party and the other insurance company (National Insurance Company Limited), the insurer of the other bus was not made a party in the claim petition. It appears that while the claim case was pending, a Lok Adalat was held at Katihar in October, 1996. In that Lok Adalat the claim of Respondents 5 and 6 was settled for Rs. 1,25,000/- and by the award, dated 2.10.1996, the two insurance companies were directed to pay the award amount in equal shares of Rs. 62,500/- each.

7. From the brief award, it appears that apart from the lawyer of the Petitioner, the lawyer of National Insurance Company Limited was also present and he too agreed that half share of the amount of compensation awarded to the claimants would be paid by National Insurance Company. It appears that in the Mela-like atmosphere in which a number of Lok Adalats are held, it did not occur to anyone to verify from the records as to who was the opp. party and who was not an opp. party and whether the direction for making payment in equal shares could be made against National Insurance Company Limited which was not even a party to the proceeding.

8. The Petitioner company duly made payment of Rs. 62,500/- as directed in the award. But, when the time for making payment came, it seems that in the office of the National Insurance Company it was realised that its lawyer had wrongly committed it to a proceeding in which it was not even a party and the award was wrongly made against it. The National Insurance Company, therefor sat over the matter and did not make any payment.

9. When the balance half of the award money was not paid to the claimants by National Insurance Company Limited, they filed a petition before the Tribunal making a prayer that the Petitioner company may be directed to made the full payment of Rs. 1,25,000/- ordered to be paid to them as compensation under

the award of the Lok Adalat. On that petition, the Addl. Dist. Judge I, Katihar passed the impugned order, dated 25.4.2000. He noticed that the National Insurance Company was not a party to the claim petition and, therefore, a manifest effort was made in the Lok Adalat in directing it to make payment of the half share of the amount awarded to the claimants. The Addl. Judge, accordingly, held that the Petitioner company was solely responsible for payment of the awarded amount and gave the direction to the Petitioner company to pay the full amount under the award.

10. Mr. Lala Sachindra Kumar, counsel appearing for Respondents 5 and 6 did not seriously defend the impugned order. Mr. Govt. Advocate also submitted that the order was indefensible and the whole proceeding had taken place in the most unfortunate manner.

11. I find myself in agreement with the views expressed by the Government Advocate and Mr. Kumar. The Addl. Judge I, Katihar undoubtedly intended to correct what was plainly a gross error in the award of the Lok Adalat, but, his order has not sanction in law. this Court is not aware of any provision of law under which he could "correct" and/or amend an award of the Lok Adalat and refix the liabilities of the parties under the award.

12. Hence, both the Lok Adalat's award, dated 2.10.1996 and the order passed by the Addl. Dist. Judge I, Katihar, dated 24.4.2000 are set aside and the claim case is remitted to the Motor Vehicles Claims Tribunal, Katihar for de novo adjudication.

13. The setting aside of the award of, Lok Adalat shall have no effect on the payment of Rs. 52,500/ already made to Respondents 5 and 6 and that payment may be adjusted against the future award of the Tribunal.

14. It will be open to Respondents 5 and 6 to take steps for amendment of the claim petition and/or impleadment of additional parties. If such petition(s) are made, the Tribunal shall consider the prayer and dispose of the petition(s) in accordance with law.

15. It is further made clear that in the de novo adjudication the Court shall not be influenced by the quantum of compensation fixed by the Lok Adalat and it will be open to the Tribunal to award compensation independently and objectively and in accordance with law.

16. Having regard to the fact that the fatal accident took place in 1994 and having regard to the unfortunate manner in which this matter has proceeded, the Tribunal is directed to ensure that the hearing is concluded and the final award is pronounced before the end of the year, 2003. All the parties are present before this Court and hence, no fresh notices need be issued to them by the Claims Tribunal, Katihar. The parties are directed to appear before the Tribunal by September 22, 2003. The Tribunal will take up the case, if need be on a day-to-day basis so as to conclude the proceeding and pronounce the award before the

end of the year.

17. In the result, this writ petition is allowed subject to the aforesaid observations and-directions.