
(2009) 05 RAJ CK 0096
In the Rajasthan High Court

Oriental Insurance Company Ltd.	Vs	APPELLANT
Smt. Laxmi Devi and Others		RESPONDENT

Date of Decision : 05-05-2009

Acts Referred:

Citation : (2009) 3 WLN 372

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mohammad Rafiq J.

1. This writ petition has been filed by the petitioner Oriental Insurance Company against the interim award dt. 18.12.1999 and the final award dt. 27.09.1999 with the prayer that amount deposited in the F.D.R. pursuant to the award of the Motor Accident Claims Tribunal, Jaipur dt. 27.09.1999 may be directed to released to the petitioner and respondents No. 1 to 4 may be directed to release such amount it has already been withdrawn by them pursuant to interim-order and final award.

2. Contention of Shri Kishan Swamy, learned Counsel for the petitioner is that even though father and mother of the deceased filed claim petition before the MACT, Jaipur which resulted in the interim-award dt. 18.12.1999 and final award dt. 27.09.1999 passed on that premise in Lok Adalat but the petitioner later on came to know that wife and minor sons of the deceased each has separately filed a claim petition before the MACT Ajmer which was later on transferred to MACT, Beawar. This fact was altogether not known to either the MACT, Jaipur or to the petitioner, compensation was thus obtained by the claimant-respondents fraudulently. Interim-order of compensation passed in favour of the wife and the minor son is liable to be set-aside and the compensation paid to them may be directed to be recovered and paid to the petitioner.

3. This Court while admitting the writ petition, stayed operation of interim award

dt. 18.12.1999 passed by MACT, Jaipur and final award dt. 27.09.1999 passed by MACT, Jaipur and both the Tribunals were restrained from disbursing the amount which was lying in the F.D.R. to the claimant-respondents, until further orders.

4. Shri Sandeep Mathur, learned Counsel for respondents No. 3 and 4 although has opposed the writ petition and has submitted that claimant respondent No. 1 is not genuine wife of deceased Jagdish and therefore Kamlesh cannot be said to be his son and that an other claim petition is liable to be rejected particularly when they have chosen not to appear before this Court in response to the notice issued to them.

5. In the facts aforesaid and particularly when in both the claim cases, compensation has been claimed on the basis of death of Jagdish, it would be necessary in the interest of justice that both the claim petitions are adjudicated upon and decided simultaneously. At this stage, MACT, Jaipur decided the aforesaid claim petition filed by respondents No. 3 and 4 ignoring the fact that they already in pursuance of death of Jagdish Prasad, another claim petition was filed at MACT, Ajmer. Claimant respondents No. 1 and 2 were not apparently aware of the fact about claim case filed by the father and mother of the deceased. In the result, the writ petition is allowed. In the facts of the case, the award passed by he MACT, Jaipur dt. 27.09.1999 cannot be sustained. It is accordingly set-aside. It is directed that Claim Case No. 162/1999 (164/98 as originally registered) with MACT, Ajmer which was lateron transferred to MACT Beawar, shall stand transferred to MACT, Jaipur and both the claim petitions shall be consolidated and adjudicated afresh by the Tribunal after notice to the concerned parties. Since the claimants in both the claim petitions have received the award of interim compensation each amounting to Rs. 50,000/-, payment of such interim compensation to claimants shall be subject to the final award that may be passed by the Tribunal and total of the two would be liable to be adjusted against the award of compensation which may be eventually passed by the Tribunal depending upon the entitlements of all the claimants in either of the two petitions as finally decided. Any of the parties may ask for revival of the proceedings before the Tribunal Jaipur by producing a copy of this order. Tribunal shall thereupon proceed with the matter keeping in view the fact that claim petitions in both the cases were filed in the year 1998, to decide the matter as expeditiously as possible. The amount deposited in the F.D.R. shall be continued to be invested on year to year basis to be ultimately disbursed to the claimants in terms of the final award passed.