

(2013) 02 RAJ CK 0040

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 877 of 2010

Smt. Gita Devi and Others

APPELLANT

Vs

Rajesh Kumar and Others

RESPONDENT

Date of Decision : 05-02-2013

Acts Referred:

Citation : (2013) 02 RAJ CK 0040

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Advocate : Sandeep Mathur, for the Appellant; V.P. Mathur, for the Respondent

Judgement

Mahesh Chandra Sharma, J.—This appeal has been filed by the claimants against the judgment and award passed by MACT. At the very outset, learned counsel for the claimants submits that the learned Tribunal while passing the impugned award has not taken into consideration the objections which he has raised by way of the aforesaid appeal. The finding of the learned Tribunal on issue no. 4 is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal qua issue no. 4 be quashed and set aside and the matter be remanded to the learned Tribunal with the direction to decide the matter afresh in the light of objections which he has raised by way of the aforesaid appeal. In support of his contentions, he has placed reliance on the following judgments:

- i) Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,
- ii) New India Assurance Co. Ltd. Vs. Pratibha Shrivastava and Others,
- iii) National Insurance Company Ltd. Vs. Indira Srivastava and Others,

2. E. Converso, the learned counsel for the respondents defended the impugned award and stated the same to be just and apposite.

3. I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

4. In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this Court.

5. In the result, the appeal is partly allowed and the impugned judgment and award dated 15.12.2009 passed by the learned Tribunal, qua issue no. 4 is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh as early as possible, qua issue no. 4 in the light of grounds raised by the learned counsel for the appellants in the aforesaid appeal and the aforesaid judgments, if applicable and other judgments to be cited by learned counsel for the parties, if any, after issuing notice to all the concerned parties and giving opportunity of hearing to them.

6. Both the parties are directed to appear before the learned Tribunal on 18.3.2013. However, it is made clear that if any amount has been received by the claimant(s) under the impugned award, the same shall not be recovered from them till disposal of the claim petition by the learned Tribunal afresh qua issue no. 4.