
(2013) 08 MP CK 0293

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 2125 of 2011

Smt. Manju and Others

APPELLANT

Vs

Mohd. Jameel and Others

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2013) 3 MPLJ 551

Hon'ble Judges : S.K. Seth, J

Bench : Single Bench

Judgement

S.K. Seth, J.—This order shall dispose of I.A. No. 4231 of 2013 filed on behalf of appellants to reduce the valuation of appeal. This is claimants' appeal u/s 173 of the Motor Vehicles Act, 1988 for enhancement of compensation, for the death of one Ratansingh in a motor accident. Claims Tribunal has awarded Rs. 3,55,000 as compensation payable jointly and severally by the respondents.

2. Appeal is valued at Rs. 4,00,000 but filed on a fixed court fee of Rs. 30/- along with an undertaking of one of the claimants, Smt. Manju, (widow of Ratansingh) that the appellants shall pay the requisite court fee in view of the M.P. Amendment 2008 made in the Court Fees in the event of dismissal of the writ petitions filed in this Court challenging the vires of the Amendment Act No. 6 of 2008. These writ petitions have been dismissed on 18.11.2011 and interim order permitting filing of appeal on fixed court fees with an undertaking have also come to an end. Even though the writ petitions have been decided, parties are still filing appeals on fixed court fee unchecked.

3. When questioned about the payment of requisite Court fee on memo of appeal, learned counsel submitted that after the reduction of valuation, he would pay the requisite court fee @ 2.5 % in the light of Single Bench order passed in Ramgopal and Another Vs. Haneef Khan and Others,

4. Now the question is what would be the Court fee payable on the memo of

appeal in hand which was filed on 16.8.2011? In this context, it is relevant to note various amendments made in the Court fees Act 1870 by the State legislature from time to time. The first Amendment was brought about by the M.P. Act No. 6 of 2008 w.e.f. 2.4.2008. By the said amendment existing Article 11 was substituted as under:-

5. The constitutional validity of the said amendment was upheld by the Division Bench of the Court vide common Order dated 18.11.2011 in W.P. No. 14740/2008 and other connected matters. It is also relevant to point out that as interim measure; this Court permitted filing of appeal against MACT Award on a fixed Court fee of Rs. 30/- with an undertaking to pay the requisite court fee as when required.

6. Now comes, the next amendment Act No. 3 of 2013 w.e.f. 9-1-2013 further reducing the ad-valorem court fees from 10% to 2.5% on the amount of enhancement claimed in appeal subject to a maximum of one lac rupees. Therefore, when appeal is preferred against the MACT Award for enhancement of compensation arising out of claim petition instituted between the period from 2.4.2008 to 9.1.2013, parties are required to pay the ad-valorem court fee of 10% on the enhanced amount claimed in appeal. There is no escape from this conclusion. Further it must be mentioned that the Second Amendment of the 2013 instead of shackling or burdening the right of appeal, eases the burden of Court fees from 10% ad-valorem to 2.5% on the differential amount. Claimed in appeal. So a fortiori, the 2.5% court fee would be applicable only claims instituted on or after the commencement of Second Amendment of 2013.

7. It is trite to say that Court fees Act is a fiscal statute and there is no scope of any intendment. The words of the statute must be given effect to. In the case in hand the accident occurred on 23.6.2010 and the claim petition was filed on 19.7.2010. That would be the cut-off date for valuation of the Court fee as per para 12 of the above Division Bench decision which reads under:-

Before parting with the case we may restate the well settled legal principle that the right to file an appeal vests in the suitor on the day when the action is instituted.

The said right is a substantive right and cannot be taken away or even curtailed by an enactment which is not retrospective unless it says so expressly or by necessary intendment [See E.V. Balakrishnan v. Mahalakshmi Anmal and another, AIR 1960 SC 980 and Ramesh Singh and another Vs. Cinta Devi and others, . Thus in view of aforesaid enunciation of law, the appeal which are filed in respect of claim cases instituted before the Motor Accident Claims Tribunal before 2.4.2008, fixed court fee would be payable whereas in respect of the appeal against the awards in respect of claims filed on or after 2.4.2008 ad-valorem court fee as provided under the Act No. 6 of 2008 would be payable.

8. In view of clear and unambiguous pronouncement of law by the Division Bench, the decision is binding. In our considered and respectful opinion, the view

expressed in Ram Gopal and another v. Haneef Khan by my learned and esteemed brother Garg J. is obiter-dicta when he holds "that on account of substitution of the court fee payable from 10% to 2.5% only by way of amendment brought in force on 9.1.2013, the Court fee in appeal arising from claim filed after 2.4.2008 shall be payable only @ 2.5% on the enhanced amount." The decision of the learned brother has the effacing effect of the Amending Act No. 6 of 2008 made by the competent State Legislature. As long as provisions stand in the statute Book, it must be given full effect to without entering into the realm of intendment and speculation. As stated above Court fees Act is not to restrict the right of appeal but to raise public revenue and when the question of public revenue is involved it is well to remember that laws are meant for the maximum good of maximum the numbers (Summum Bomun See J. Bentham).

9. In conclusion we hold that on the date of filing of the appeal, the Court fee payable was 10% ad-valorem of the differential amount claimed in appeal in view of the M.P. Act No. 6 of 2008 *ibid*. The 10% ad-valorem would have been charged on the valuation set out in the memo of appeal but we allow the I.A. No. 4231/2013 and permit the appellants to reduce the valuation of claim in appeal from Rs. 4,00,000/- to Rs. 3,00,000/- as enhancement. The appellants are granted four weeks" time to pay the requisite court fee failing which the appeal shall stand dismissed without reference to the Court. Office is directed to examine each appeal in the light of above decision on the question of payment of Court fee thereon. Ordered accordingly.