
(2014) 03 RAJ CK 0026

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6659/2010

Sundar Devi and Others

APPELLANT

Vs

Presiding Officer, M.A.C.T. and Additional District Judge (Fast Track) No. 3 and Others

RESPONDENT

Date of Decision : 28-03-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 24, Order 22 Rule 12

Citation : (2014) 03 RAJ CK 0026

Hon'ble Judges : M.N. Bhandari, J

Bench : Single Bench

Advocate : Sandeep Mathur, Advocates for the Appellant; P.S. Arya and Julie Khandelwal, Advocates for the Respondent

Judgement

M.N. Bhandari, J.—By this writ petition, a challenge is made to the order dated 07.04.2010 passed by the Motor Accident Claims Tribunal.

2. Learned counsel submits that after acceptance of claim petition filed by Kanaram, he died later on. The amount of compensation was awarded by the MACT in regard to the injuries sustained by him. The insurance company deposited the cheque in satisfaction of the award. The petitioners claiming to be legal heirs, moved an application for withdrawal of the said amount, but it has been denied for want of succession certificate. The succession certificate is not required in the case of execution proceedings, as has been held by the Allahabad High Court in the case of Chhotey Lal Vs. Dist. Judge, and others, and also by this Court in the cases of Gopal Synthetics Vs. Workmen's Compensation Commissioner and Others, and Shabnam Bano Vs. Motor Accidents Claims Tribunal and Others, .

3. I have considered the submissions made by the learned counsel for the petitioners and perused the record.

4. It is not in dispute that claim petition was filed by Kanaram when he sustained

injuries in the accident. The MACT passed an award in his favour but before he could have received the actual fruits, died. Though in the meanwhile, the insurance company deposited the amount so awarded by the Tribunal. An application was moved for withdrawal of the amount by the petitioners, which was not permitted in absence of succession certificate.

5. The issue is as to whether disbursement of the amount can be denied in absence of succession certificate. The first judgment referred by the Counsel for the petitioners is in the case of Chhotey Lal(supra). Therein, the judgment was rendered in reference to Order 21 Rule 24 and Order 22 Rule 12 of CPC. There, death of decree holder took place during the execution proceedings, thus, the parties were entitled to seek benefit of Order 21 Rule 24 and Order 22 Rule 12 CPC. In the pending execution proceedings, a party is entitled to make an application to bring legal heirs on record and the proceedings can be continued accordingly. In the case in hand, no execution proceedings were pending or initiated, thus, the Counsel for the petitioners could not specify as to how Order 21 Rule 24 or Order 22 Rule 12 CPC can apply.

6. The other judgment is in the case of Gopal Synthetics(supra). Therein, the issue was little different. Therein, claim application was moved and plea for abatement was raised, but then the Court held that mother being the sole legal heir, was entitled to receive compensation. It was held that once a right is crystallised and vests in the dependent, it becomes a civil right and the legal representatives are entitled to step into the shoes of the dependent. Again the facts therein were quite different. It is no doubt that the dependent or legal heirs are entitled to receive the amount, but unless it is determined as to who is the dependent or legal heir, disbursement cannot be permitted. The controversy of the nature raised herein was not there before the Court. Accordingly, the judgment in the case of Gopal Synthetics(supra) does not apply to the facts of this case.

7. In the case of Shabnam Bano(supra), the controversy was similar to that involved in the present case. Therein, the MACT awarded interim compensation, but then the Tribunal asked the petitioner for succession certificate for release of payment. The petitioner stated herself to be the only successor to the deceased. The petition therein was allowed with an arrangement to accept undertaking from the petitioner to return the amount as and when directed by the Tribunal. The question is as to whether the judgment aforesaid propound a ratio in reference to any legal provision and what would be the consequence if such practice is allowed.

8. In a given case where genuine legal successor came before the Court, disbursement of the amount in her/his favour may not cause any ill consequence, but in other case, instead of legal heir or dependent, somebody comes with the undertaking to return the amount and the Court directs to disburse the amount without even verification, it may result in ill consequence, rather deprive a real person to get the amount. To avoid such controversy, it is

always proper to have succession certificate because the Tribunal cannot determine the issue of succession. It is further to be noted that apart from illustration given above, there may be a case where more than one claimants make application to get the amount, then what criteria can be applied by the MACT for disbursement? The obvious answer is to ask the parties to get succession certificate so their status is crystallized to make a claim.

9. In view of above the judgments of the coordinate Bench, in given facts, cannot be applied in all circumstances, rather the Tribunal is to be guided with proper direction which may avoid any other complications. There may be cases where disbursement is made on the undertaking, as directed by this Court in the case of Shabnam Bano(supra) and thereafter any person comes making allegation against the Tribunal for disbursement of the amount to the stranger without succession certificate. Thus, such directions should be passed which not only are legal but save any other Complication.

10. In view of the above, I do not find any illegality or error in the order passed by the MACT. The writ petition is accordingly dismissed.