
(2010) 10 SHI CK 0297
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 6894 of 2008

Tikka Ram

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 06-10-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 10 SHI CK 0297

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Petitioner was appointed as a Driver in the respondent-department on 12.5.1988. He was driving jeep on 29.11.1997, which met with accident resulting in death of Balwinder Singh Chikka. Petitioner was served with a notice on 12.6.2000 seeking his reply within 15 days why the recovery of an amount of Rs. 6,02,000/- be not started from his salary at the rate of Rs. 4,083/- per month. He filed reply to the same vide Annexure A-2 in the month of July, 2000. Respondent No. 2 after taking into consideration the reply filed by the petitioner ordered to effect recovery from the salary of the petitioner @ Rs. 1551/- per month vide office order dated 26.7.2000. Petitioner has assailed this order.

2. Mr. Harmeet Singh has strenuously argued that office order dated 26.7.2000 is illegal, arbitrary, thus violative of Articles 14 and 16 of the Constitution of India. According to him, amount of compensation could not be recovered from his client.

3. Mr. P.M. Negi has supported office order dated 26.7.2000.

4. I have heard the learned Counsel for the parties and have perused the pleadings carefully.

5. Petitioner was driving jeep and it met with an accident on 29.11.1997. Injuries

were caused to one Sh. Balwinder Singh Chimma. He died on 30.11.1997. The legal heirs of Balwinder Singh Chimma filed claim petition before the Motor Accident Claims Tribunal, Chandigarh. The Motor Accident Claims Tribunal, Chandigarh passed award on 28.2.2000 and awarded a sum of Rs. 6,02,000/- to the claimants. Petitioner was found negligent as per the findings recorded by the learned Motor Accident Claims Tribunal. He had appeared as RW-1 before the Tribunal. The Tribunal has relied upon the statement made by Sh. Surjit Singh (PW-2). It is in these circumstances that notice was served upon the petitioner vide Annexure A-1 dated 12.6.2000. Petitioner has filed reply vide Annexure A-2. Respondent No. 2 after considering the reply filed by the petitioner passed office order dated 26.7.2000. He has ordered to effect recovery of compensation from the salary of the petitioner @ Rs. 1551/- per month. Petitioner has not assailed the award dated 28.2.2000. It was open to him to assail the findings of the Motor Accident Claims Tribunal whereby he has been found negligent in driving the jeep in question. The Tribunal has taken into consideration the statements of PW-2 Surjit Singh, Sh. N.D. Badhan and RW-1 while coming to a conclusion that the petitioner was negligent in driving the jeep. The Tribunal has also taken into consideration the contents of the F.I.R. while recording these findings. There is no illegality in the office order dated 26.7.2000. The same has been passed in conformity with the principles of natural justice. Petitioner had been issued show cause notice to which he filed reply and it is only after taking into consideration the reply filed by him that office order dated 26.7.2000 has been issued.

6. Mr. Harmeet Singh has strenuously argued that in sequel to F.I.R. registered by Chandigarh police, challan was put before the court having appropriate jurisdiction at Chandigarh. However, the judgment has not been placed on record by the petitioner. It is made clear that in case the petitioner is acquitted by the trial court, the same shall be taken into consideration by the respondents.

7. Accordingly, in view of the observations made hereinabove, there is no merit in the petition and the same is dismissed. No costs.