

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 2706 OF 2012
(arising out of SLP(C)Nos.22750/2009)

BIMLA DEVI AND OTHERS

Appellant (s)

VERSUS

SATBIR SINGH AND OTHERS

Respondent(s)

O R D E R

1. Leave granted.

2. This is indeed an unfortunate case, wherein on account

of technicalities, the Motor Accident Claims Tribunal,

Bhiwani (for short, 'the Claims Tribunal") proceeded to

dismiss the Appellants-Claimants' Claim Petition No.75

of 2006 on 13.11.2007.

Feeling

aggrieved

thereof,

Claimants preferred

FAO

No.1543

of

2008,

before

learned Single Judge of the High Court of Punjab and

Haryana at Chandigarh, but unfortunately that also came

to be dismissed on 24.3.2009.

Thus,

unsuccessful

Claimants are Appellants

before us,

praying

that

looking to the facts and features of the case, either

they be awarded just, proper and adequate compensation

by this Court itself or if it is found that their Claim

Petition is lacking in material particulars and

evidence, then matter be remitted

to

the

Claims

2

Tribunal, for fresh decision on merits and in

accordance with law.

3. Despite service of notice, Respondent nos.1 and 2, i.e.

the owner and driver, have not appeared before us.

Respondent No.3 - Insurance Company is represented by

Smt. Nanita Sharma,

Advocate and

has filed

counter

affidavit.

4. In the counter, it is specific case of the Insurance

Company that factum of accident has not been established by the Appellants. Since the accident itself could not be proved, the question of grant of compensation to the Appellants for death of Ompal did not arise. It has also been contended that as against findings of two Courts recorded against the Appellants, no case has been made out for interference in this appeal.

5. We have accordingly heard Mr. Yashpal Rangi, learned counsel for the Appellants and Mrs. Nanita Sharma, learned counsel for Respondent No.3 and perused the record.

6. Thumbnail sketch of the facts of the case are as mentioned hereinbelow.

7. Deceased Ompal was travelling in a Three Wheeler on 15.5.2006. Deceased was accompanied by co-passenger
3

Sunita and Janak Raj along with others. F.I.R. dated 16.5.2006 was lodged by Sunita, aforesaid co-passenger injured in the same accident. It is said that the accident had occurred on account of rash and negligent driving of the Three Wheeler by its driver. On account of it, the same had dashed against the tree due to which Ompal had sustained grievous injuries and later succumbed to the same. They had filed a Claim Petition under Section 166 of the Motor Vehicles Act (in short, 'the Act') before the Claims Tribunal for awarding compensation to them for death of Ompal.

8. For the reasons beyond the control of the Claimants, they were not able to produce the evidence of co-passengers i.e. Sunita and Janak Raj. They had summoned records of Criminal Case No.196 and evidence of Ahalmad was recorded, which established lodging of the F.I.R. by Sunita on 16.5.2006, the Postmortem Report of the deceased Ompal and his M.L.R. Probably on

the strength of the scanty evidence produced before the Claims Tribunal, Claimants were of the opinion that the factum of the accident and death of Ompal have been established. Therefore, they did not think it proper

or necessary to examine co-passengers of the Three Wheeler. In the result, the Claim Petition came to be

4

dismissed. The appeal filed by them also proved to be futile.

9. Here, the Appellants have filed affidavit of Janak Raj and they have also taken us through the statement of Sunita, recorded by Police under Section 161 of Code of Criminal Procedure, after she had lodged the F.I.R.

10. Thus, looking to the matter from all angles, we are of the considered opinion that one more opportunity should be given to the Appellants so that they may be able to prove the factum of the accident and if they are able to do so successfully, then they may also be able to get just, adequate and proper compensation.

Only on

account of hyper-technicality and niceties of law, Claimants should not be thrown out at the threshold.

That is not the purpose for which the Claims Tribunals are established.

11. No doubt, it is true that claim case has not been contested in a proper and legal manner, but that should not be sufficient to throw the claim petition, so as to deny the Claimants of their just compensation.

It is

always desirable, rather a necessity in law, that the matter, as far as possible, be decided on merits and in accordance with law.

According to us, that has not been done, may be on account of several mistakes

5

committed by the Appellants.

12. In Claim Cases, it is difficult to get witnesses,

much less eye witnesses, thus extremely strict proof of facts in accordance with provisions of Indian Evidence Act may not be adhered to religiously. Some amount of flexibility has to be given to those cases, but it may not be construed that a complete go-by is to be given to the Indian Evidence Act. From the facts as unfolded hereinabove, it is clear that Appellants have been callous and negligent in prosecuting the matter and did not do so in right earnest. We cannot take a pendent view of the matter so as to shut the doors of justice to the Appellants. Motor Vehicles Act is a social piece of legislation and has been enacted with intent and object to facilitate the Claimants/Victims to get redress for the loss of loosing of family member or for injuries at an early date. In any case, money cannot be any substitute for it, but in long run it may have some soothing effect. Thus, it is desirable to adopt a more realistic, pragmatic and liberal approach in these matters. In our considered opinion, interest of justice would be served and fully met if appellants are afforded at least one more opportunity to prove their case to the satisfaction of the Claims Tribunal.

6

13. In this view of the matter, we deem it fit and proper to remit the matter to the Motor Accident Claims Tribunal, Bhiwani to afford an opportunity to both parties to lead evidence and to prove the factum of accident, the age and nature of work that was being conducted or carried on by deceased Ompal and finally, if they are able to establish the aforesaid facts, then to work out the amount of compensation to which the Appellants would be entitled. The Respondents would also be at liberty to lead evidence in rebuttal, if they so desire.

14. In the light of this, the impugned award passed by the

Claims Tribunal dated 13.11.2007 and the order passed by the learned Single Judge of the High Court dated 24.3.2009 are hereby set aside and quashed and the appeal is accordingly allowed. The matter be decided afresh de novo, meaning thereby that the parties would be at liberty to lead evidence afresh. This we are saying so, on account of several documents which have been brought to our notice for the first time and could not be placed before the Claims Tribunal.

15. The parties would be at liberty to file additional documents to prove their respective case. Since the matter is old, we direct the parties to appear before

7

the Claims Tribunal on 29.3.2012. The Claims Tribunal would endeavour to dispose of the said Claim Petition on merits and in accordance with law within a period of nine months from the said date.

.....J.
(DEEPAK VERMA)

.....J.
(K.S. RADHAKRISHNAN)

NEW DELHI,
FEBRUARY 28, 2012.

8

ITEM NO.10 COURT NO.10 SECTION IVB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).22750/2009

(From the judgement and order dated 24/03/2009 in FAO No.1543/2008 of the HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

BIMLA DEVI & ORS. Petitioner(s)

VERSUS

SATBIR SINGH & ORS. Respondent(s)

(With prayer for interim relief and office report)

Date: 28/02/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Yashpal Rangi, Adv.
Mr. Kamal Mohan Gupta, A.O.R.

For Respondent(s) Mrs. Nanita Sharma, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
In terms of signed order, the appeal is
allowed.

(A.D. Sharma)
Court Master
9

(S.S.R. Krishna)
Court Master

(Signed Order is placed on the file)