SUPREME COURT OF INDIA

State of Punjab

Vs.

Jalour Singh

C.A.No.522 of 2008

(K.G Balakrishnan CJ. G P Mathur and R.V RaveendranJJ.)

18.01.2008

JUDGMENT

K.G. Balakrishnan,CJ.

1. Delay condoned. Leave granted. Heard the learned counsel.

2. Respondents 1 and 2 herein - the husband and son of one Amarjit Kaur, who died in a motor accident involving a Punjab roadways bus, filed a claim petition before the Motor Accident Claims Tribunal, Faridkot. As against the compensation of Rs.5 lacs claimed, the Tribunal, on 1.12.1998 awarded a compensation of Rs.1, 44,000. Not being satisfied with the quantum of compensation, respondents 1 and 2 filed FAO No.1549/1999 before the Punjab & Haryana High Court. The said appeal was referred to Lok Adalat organised by the High Court, for settlement.

3. The High Court Lok Adalat took up the case on 3.8.2001. The parties were not present. Their counsel were present. After hearing them the Lok Adalat passed the following order: FAO No.1549 of 1999.

> "After hearing counsel for the parties, we propose to increase in the amount of compensation, which is considered just and reasonable in this case. The accident took place on March 4, 1997. Amarjit Kaur, aged about 32 years, died in the accident. Her husband and minor son claimed compensation. The Tribunal granted Rs.1, 44,000/- along with 12 percent per annum interest. Feeling dissatisfied, they are in appeal. The deceased was doing household work and also looking after some cattle and selling milk. The tribunal fixed earning capacity at Rs.900/- and dependency at Rs.600/- Applying multiplier of 15, compensation was worked out at Rs.1, 08,000/-. To this a sum of Rs.28, 253 on account of medical expenses, Rs.2147/- towards incidental charges and Rs.5600/- towards hospital charges were allowed. We are of the opinion that the earning capacity of the household wife has been determined on the lower side.

An ordinary laborer gets Rs.1200/- per menses and at the lowest at least Rs.1200/- should have been determined the earning capacity of the deceased and dependency of the claimants at Rs.800/-. The multiplier of 15 applied in this case is also on the lower side. Since the deceased was aged 32 years, as per Schedule attached to the Motor Vehicles Act, multiplier should have been 17. Thus, compensation worked out at Rs.1, 63,200/- (Rs.800/- x 12 x 17). To this a sum of Rs.7,000/- is added i.e. Rs.2,000/- towards funeral expenses and Rs.5,000/- towards loss of consortium, payable to the husband, making total compensation payable at Rs.1,70,200/-. The Tribunal under this head allowed compensation of Rs.1, 08,000/- i.e. under this head the claimants would get Rs.62, 200/- over and above that amount. The compensation granted under other heads is considered just and reasonable.Thus, while allowing the appeal, we grant compensation of Rs.62,200/- over and above the amount awarded by the Tribunal to the appellants, who would share it equally. On this amount they will get interest at the rate of 12 percent per annum from the date of filing of the claim petition i.e. July 28, 1997, till payment. Two months time is allowed to the respondents to make the payment. If the parties object to the proposed order as above, they may move the High Court within two months for disposal of the appeal on merits according to law.Copies of the order be supplied to the counsel for the parties."

4. Punjab Roadways (second appellant herein) filed an application dated 15.1.2002 (CM No.13988-CII of 2002 in FAO No.1549/1999) to set aside order dated 3.8.2001 passed by the Lok Adalat, as it was passed without their consent. The said application was rejected by a learned Single Judge by a short order dated 11.9.2002 on the ground that such objections were not maintainable or entertain able, having regard to its decision in *Charanjit Kaur v. Balwant Singh*[1] *decided on 30.7.2002)* and other cases. In Charanjit Kaur, the learned single Judge had held that an order passed by the Lok Adalat can be challenged only by a petition under Article 227 of the Constitution, as all proceedings before the Lok Adalat are deemed to be judicial proceedings and Lok Adalat is deemed to be a civil court under section 22(3) of Legal Services Authorities Act, 1987.

5. The appellants, therefore, filed a petition under Article 227 of the Constitution (Civil Revision Petition No.970/2004) challenging the order dated 3.8.2001 of the Lok Adalat. The said petition was rejected by another single Judge of the High Court by the following order dated 26.2.2003:

"The instant petition has been filed under Article 227 of the Constitution seeking necessary directions quashing the order dated 3.8.2001 passed by the Lok Adalat enhancing the compensation in favor of the claimant-respondents to the tune of Rs.62,000/-. The order of the Lok Adalat specifically indicated that if the parties were not satisfied, they could file objections within a period of two months for the disposal of the appeal on merits in accordance with law. The petitioners-State had filed objections which were dismissed on 11.9.2002 and the order of the Lok Adalat dated 3.8.2001 had attained finality. Now the instant petition has been filed against

challenging the order of the Lok Adalat dated 3.8.2001. Nothing has been pointed out showing that such a petition under Article 227 of the Constitution is maintainable. Apart from the fact that the Lok Adalat has granted time for filing the objections and the objections have been dismissed, the meager increase in the amount of compensation does not warrant any interference. In view of the above, the petition is dismissed being not maintainable.The said order is under challenge in this appeal by special leave."

6. We are rather dismayed at the manner in which the entire matter has been dealt with, undermining the very purpose and object of Lok Adalats. At every stage the Lok Adalat and the High Court have acted in a manner contrary to law.

7. A reference to relevant provisions will be of some assistance, before examination of the issues involved. Section 19 of the Legal Services Authorities Act, 1987 ('LSA Act' for short) provides for organization of Lok Adalats. Section 19(5)(i) of LSA Act provides that a Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of any case pending before any court for which the Lok Adalat is organized. Section 20 relates to cognizance of cases by Lok Adalats. Sub-section (1) refers to Lok Adalats taking cognizance of cases referred to by courts and sub-section (2) refers to Lok Adalats taking cognizance of matters at pre-litigation stage. The relevant portions of other sub-sections of section 20, relating to cases referred by courts, are extracted below :

"(3) Where any case is referred to a Lok Adalat under sub-section (1) The Lok Adalat shall proceed to dispose of the case and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section."

8. It is evident from the said provisions that Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and put its seal

of confirmation by making an award in terms of the compromise or settlement. When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with law. No Lok Adalat has the power to "hear" parties to adjudicate cases as a court does. It discusses the subject matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by principles of justice, equity, fair play. When the LSA Act refers to 'determination' by the Lok Adalat and 'award' by the Lok Adalat, the said Act does not contemplate nor require an adjudicatory judicial determination, but a non-adjudicatory determination based on a compromise or settlement, arrived at by the parties, with guidance and assistance from the Lok Adalat. The 'award' of the Lok Adalat does not mean any independent verdict or opinion arrived at by any decision making process. The making of the award is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties in the presence of the Lok Adalat, in the form of an executable order under the signature and seal of the Lok Adalat.

9. But we find that many sitting or retired Judges, while participating in Lok Adalats as members, tend to conduct Lok Adalats like courts, by hearing parties, and imposing their views as to what is just and equitable, on the parties. Sometimes they get carried away and proceed to pass orders on merits, as in this case, even though there is no consensus or settlement. Such acts, instead of fostering alternative dispute resolution through Lok Adalats, will drive the litigants away from Lok Adalats. Lok Adalats should resist their temptation to play the part of Judges and constantly strive to function as conciliators. The Endeavour and effort of the Lok Adalats should be to guide and persuade the parties, with reference to principles of justice, equity and fair play to compromise and settle the dispute by explaining the pros and cons, strength and weaknesses, advantages and disadvantages of their respective claims.

10. The order of the Lok Adalat in this case (extracted above), shows that it assumed a judicial role, heard parties, ignored the absence of consensus, and increased the compensation to an extent it considered just and reasonable, by a reasoned order which is adjudicatory in nature. It arrogated to itself the appellate powers of the High Court and 'allowed' the appeal and 'directed' the respondents in the appeal to pay the enhanced compensation of Rs.62, 200/- within two months. The order of the Lok Adalat was not passed by consent of parties or in pursuance of any compromise or settlement between the parties, is evident from its observation that "if the parties object to the proposed order they may move the High Court within two months for disposal of the appeal on merits according to law". Such an order is not an award of the Lok Adalat. Being contrary to law and beyond the power and jurisdiction of the Lok Adalat, it is void in the eye of law. Such orders which "impose" the views of the Lok Adalats on the parties, whatever be the good intention behind them, bring a bad name to Lok Adalats and legal services.

11. The travails of the parties did not end with the Lok Adalat. Because the Lok Adalat directed the aggrieved party to move the High Court for disposal of appeal on merits if they had objection to its order, the appellants moved the High Court by an application in the

appeal, stating that they had not agreed to the enhancement proposed by Lok Adalat and praying that the order of the Lok Adalat increasing the compensation by Rs.62,200 may be set aside as there was no settlement or compromise. The learned single Judge failed to notice that there was no settlement or compromise between the parties; that the order made by the Lok Adalat was not an award in terms of any settlement as contemplated under the LSA Act; that the Lok Adalat had clearly stated that the parties may either agree to it, or move the High Court for disposal of the appeal on merits in accordance with law; and that in the absence of any settlement and 'award', the appeal before the High Court continued to be pending and could not have been treated as finally disposed of. The learned single Judge instead of perusing the order of the Lok Adalat and hearing the appeal on merits, proceeded on a baseless assumption that the order dated 3.8.2001 of the Lok Adalat was a binding award and therefore an application to hear the appeal, was not maintainable and the only remedy for the appellants was to challenge the order of the Lok Adalat by filing a writ petition under Article 227 of the Constitution.

12. It is true that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.

13. But the travails continued. In view of the order dated 11.9.2002 passed by the learned single Judge holding that a petition under Article 227 has to be filed to challenge the order of the Lok Adalat, the appellants filed a petition under Article 227. But the said petition was dismissed by another single Judge on the ground that the order of Lok Adalat passed on 3.8.2001 had attained finality as the objections to it were dismissed on 11.9.2002 and a petition under Article 227 was not maintainable to challenge the order of Lok Adalat. He failed to notice that the order dated 3.8.2001 was neither a decision nor had it attained finality. He also failed to notice that the objections to the order were not rejected by the High Court after consideration on merits. He also overlooked the fact that the learned Judge who decided the appellants' application, had directed that the order of the Lok Adalat should be challenged by filing a petition under Article 227. Be that as it may.

14. Thus we find that the Lok Adalat exercised a power/jurisdiction not vested in it. On the other hand, the High Court twice refused to exercise the jurisdiction vested in it, thereby denying justice and driving the appellants to this Court. In this process, a simple appeal by

the legal heirs of the deceased for enhancement of compensation, has been tossed around and is pending for more than eight years, putting them to avoidable expense and harassment.

15. We therefore allow this appeal and quash the order dated 3.8.2001 of the Lok Adalat as also set aside the orders dated 11.9.2002 and 26.2.2003 of the High Court. As a consequence, the High Court shall hear and dispose of FAO No.1549/1999 which continues to be pending on its record, on merits in accordance with law. The High Court is requested to dispose of the appeal expeditiously. Parties to bear their respective costs.

Cases Referred

[1] *(CM No.13988-CII of 2002 in FAO No.1827/1999*