

Bimla Devi & Others

v.

Satbir Singh & Others

(Supreme Court Of India)

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

Criminal Appeal No. 2706 Of 2012 | 28-02-2012

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 & Haryana at Chandigarh, but unfortunately that also came to be dismissed on 24.3.2009. Thus unsuccessful Claimants are Appellants before us, praying the Looking to the facts & features of the case, either they be awarded just, proper & adequate compensation by this Court itself or it is found that their Claim petition is lacking in material particulars & evidence, then matter be remitted to the Claims Tribunal, for fresh decision on merits & in accordance with law.

3. Despite service on notice, Respondent nos 1 & 2, i.e. the owner & driver, have not appeared before us, Respondent No.3 Insurance Company is represented by Smt. Nanita Sharma, Advocate & 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 Appellant of 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 & Mrs. Nanita Sharma, learned Counsel for respondent No.3 & perused the record.

6. Thumbnail sketch of the facts of the case areas mentioned hereinbelow.

7. Deceased Ompal was travelling in a Three Wheeler on 15.5.2006. Deceased was accompanied by co-passenger Sunita & 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 & 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 & 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 & Janak Raj. They had summoned records of Criminal Case No.196 & 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 & 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 & 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 dismissed. The appeal filed by them also proved to be futile.

9. Here, the Appellants have filed affidavit of Janak Raj & 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 & 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 & niceties of that Claimants should not be thrown out at the door. That is not the purpose of which the Claims Tribunals are established.

11. No doubt, it is true that claim case has not been contested in a proper & legal manner, but that should not be sufficient to throw the claim petition, so as to deny the Claimants their just compensation. It is always desirable, rather a necessity in law, that the matter, as far as possible, be decided on merits & in accordance with law. According to us, that has not been done, may be account of several mistakes committed.

12. In Claim Case, it is difficult to get witnesses, much less eye witness, thus extremely strict proof of facts in accordance with provision 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 & negligent in prosecuting

the matter & did not do so in right earnest. We cannot take a pendente view of the matter as to shut the doors of justice to the Appellants. Motor Vehicles Act is a social piece of legislation & has been enacted with intent & object to facilitate the Claimants victims to get redress for the loss of losing of family member of 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 & liberal approach in these matters. In our considered opinion, interest of justice would be served & fully met if appellants are afforded at least one more opportunity to prove their case to the satisfaction of the Claims Tribunal.

13. In this view of the matter, we deem it fit & proper to remit the matter to the Motor Accident Claims Tribunal, Bhiwani to afford an opportunity to both parties to lead evidence & to prove the factum of accident, the age & nature of work that was being conducted or carried on by deceased Ompal & 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 & the order passed by the learned Single Judge of the High Court dated 24.3.2009 are hereby set aside & quashed & 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 & 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 the Claims Tribunal on 29.3.2012. The Claims Tribunal would endeavour to dispose of the said Claim Petition on merits & in accordance with law within a period of nine months from the said date.

16. Appeal disposed of.