

SUPREME COURT OF INDIA

Indra Kaur & Ors.

Vs.

Royal Sundram Alliance Ins.Co.Ltd. & Anr.

C.A.No.506 of 2016

(Kurian Joseph and R.F.Nariman,JJ.)

22.01.2016

JUDGMENT

Kurian Joseph,J.

(Arising out of SLP (C) No. 4835 of 2013)

1. Leave granted.

2. The appellants are the legal representatives of late Pratap Singh. He was a driver employed by respondent No.2-Devendra Singh. During the course of employment, Pratap Singh met with an accident and died. The appellants approached the Workmen's Compensation Commissioner and by Award dated 26.05.2008, an amount of Rs.4,03,320/- as compensation with interest @ 12% p.a.on the compensation from 12.11.2005 was awarded.

3. The first respondent-Insurance Company challenged the same before the High Court. The High Court set aside the Award passed by the Commissioner on the ground that there was no evidence before the Commissioner that late Pratap Singh was employed by Devendra Singh, respondent No.2. On the contrary, available evidence showed that Pratap Singh was the partner of Devendra Singh.

4. In the nature of the order we propose to pass in this case, we do not think it necessary to go into those aspects. The appellants have been rightly granted liberty by the High Court to initiate proceedings under the Motor Vehicles Act for compensation. The High Court has, however, restricted the claim as against the alleged offending vehicle, namely, Military Truck and its insurer. We do not think that the approach was quite proper. The appellants are free to proceed against respondent No.1 as well and all the questions are to be decided by the Tribunal at the time of considering the application for compensation.

5. In that view of the matter, we make it clear that the findings recorded by the High Court shall not stand in the way of the Tribunal while conducting appropriate inquiry. The Tribunal shall decide the matter on merits since the appellants have been prosecuting their case with

due diligence before the Commissioner, the High Court and before this Court. We also request the Tribunal to dispose of the application expeditiously.

6. The appeal is disposed of with no order as to costs.