

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

OWP No. 934/2010

Date of decision: 11.08.2011

Sudershan Kumari v. Presiding Officer, Motor Accidents
Claims Tribunal, Jammu and anr.

Coram:

MR. JUSTICE J.P.SINGH.

Appearing Counsel:

For petitioner (s) : Mr. B.S.Manhas, Advocate.

For respondent (s) : Mr. D.S.Chauhan, Advocate for R-2.

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|-----|--|---|---------------|
| i) | Whether to be reported
in Press/Journal/Media | : | Yes/No |
| ii) | Whether to be reported
in Digest/Journal | : | Yes/No |
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Petitioner's father died in a Motor Vehicular Accident on 29.06.2007. She along with her mother, who was dependant on the earnings of the deceased, filed a Claim Petition before the Motor Accidents Claims Tribunal, Jammu seeking compensation for the death of Sagar Chand-deceased.

The Claim Petition was settled in a Lok Adalat held on 15th September, 2009. In terms of the decision, the petitioner and her mother were held entitled to an amount of Rs.1,65,000/- along with interest @ 7.5% per annum.

The petitioner, filed an Application before the Motor Accidents Claims Tribunal, Jammu saying that Rs.50,000/- was paid to the claimants on the basis of no fault liability, during the currency of the Claim Petition and Rs.25,000/- was released in her favour after the Award made by the Lok Adalat and that because of the death of Smt. Vidya Devi, her mother, during the currency of the Claim petition, she was entitled to the release of remaining amount of Rs.90,000/- being the only surviving legal heir of Vidya Devi.

The Motor Accidents Claims Tribunal, Jammu rejected the petitioner's Application saying that Smt. Vidya Devi having expired on 08.08.2009, i.e., during the currency of the Claim Petition and about one year before the matter came to be settled in the Lok Adalat on her behalf, the Award of the Lok Adalat was a nullity in law and the petitioner was, therefore, disentitled to the release of amount covered by the Award.

Aggrieved by the rejection of her Application, the petitioner has invoked the Supervisory Jurisdiction of this Court to question the order passed by the Motor Accidents Claims Tribunal, Jammu.

Heard learned counsel for the parties.

The petitioner does not dispute the death of her mother during the pendency of the Claim Petition and before the Award of the Lok Adalat.

The Award of the Lok Adalat, based on settlement on behalf of the claimant, when she was dead, is rendered void. The petitioner cannot, therefore, seek execution of the Award, which is nullity in law.

The view taken by the Motor Accidents Claims Tribunal, Jammu, therefore, does not suffer from any error of law, in that, a, void Judgment or Award of the Court or Tribunal is unenforceable.

There is, therefore, no merit in the Petition, which is, accordingly, dismissed.

(J. P. Singh)
Judge

Jammu
11.08.2011
Pawan Chopra