

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAI PUR BENCH, JAI PUR
JUDGMENT

S. B. Civil Misc. Appeal No. 5526/2011
(Smt. Meena Devi & Ors. Versus Radhey Shyam
Sharma & Others)

Date of Judgment :: 31st January, 2013

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Sandeep Mathur, counsel for the appellants
Mr. Lokesh Parihar, counsel for the respondents

BY THE COURT:

The instant appeal has been filed by the claimants appellants against the judgment and award passed by MACT.

At the very outset, learned counsel for the appellants submits that the learned Tribunal while passing the impugned award has not taken into consideration the objections which he has raised by way of the aforesaid appeal. The finding of the learned Tribunal on issue no. 3 is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal qua issue no. 3 be quashed and set aside and the matter be remanded to the learned Tribunal with the direction to decide the matter afresh qua issue no. 4 in the light of objections which he has raised by way of the aforesaid appeal and the documents, which have been placed by him on record. In support of his contentions, he has

placed reliance on the following judgment:

i) Sarla Verma Versus DTC reported in 2008 – 2009 (Suppl) RAR (SC)

E Converso, the learned counsel for the respondents defended the impugned award and stated the same to be just and apposite.

I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this Court.

In the result, this civil misc. appeals is partly allowed and the impugned judgment and award dated 20.6.2011 passed by Motor Accident Claims Tribunal, qua issue no. 3 is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh qua issue no. 3, as early as possible, in the light of the grounds raised by the learned counsel for the appellants in the instant appeal and the aforesaid judgment, if applicable and other judgments, to be cited by

Learned counsel for the parties, if any, after issuing notice to all the concerned parties and giving opportunity of hearing to them.

Both the parties are directed to appear before the Learned Tribunal on 18. 3. 2013.

However, it is made clear that if any amount has been received by the claimant(s) under the impugned award, the same shall not be recovered from them.

(MAHESH CHANDRA SHARMA), J.

DK

All corrections made in the judgment / order have been incorporated in the judgment / order being E-mailed.

Dilip Khandelwal
PA