

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

JUDGMENT

1. S.B. Civil Misc. Application No. 585/2011
In
S.B. Civil Misc. Appeal No. 4195/2007
(The Oriental Insurance Co. Ltd. Versus Smt.
Suraj Devi & Ors.)
&
S.B. Civil Cross Objection No. 58/2011
In
S.B. Civil Misc. Appeal No. 4195/2007
(The Oriental Insurance Co. Ltd. Versus Smt.
Suraj Devi & Ors.)
2. S.B. Civil Misc. Appeal No. 157/2008
S.B. Civil Misc. Stay Application No. 148/2008
(The Oriental Insurance Co. Ltd. Versus Smt.
Santosh Devi & Ors.)

Date of Judgment :: 28th November, 2014

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Saransh Saini, counsel for the applicant-appellant

BY THE COURT:

Learned counsel for the applicant-appellant wants to withdraw the application with the prayer that the Civil Misc. Appeal No. 157/2008, which has been annexed with this application, should be remanded to the Tribunal in the same manner in which the Civil Misc. Appeal No. 4195/2007 and Cross Objection No. 58/2011 had been remanded by this court vide order dated 26.8.2011 to the Tribunal for deciding the matter afresh qua issue nos. 4 and 5.

He has further contended that the

Learned Tribunal while passing the impugned judgment and award has not taken into consideration the grounds which he has raised by way of the aforesaid appeal no. 157/2008. The finding of the Learned Tribunal on issue no. 4 and 5 is contrary to the material available on record. Thus, the impugned award passed by the Learned Tribunal qua issue no. 4 and 5 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 and 5 in the light of grounds which he has raised by way of the aforesaid appeal.

This prayer seems to be genuine. Hence, the application filed by the applicant-appellant stands dismissed as withdrawn.

The Civil Misc. Appeal No. 157/2008 is partly allowed; the impugned judgment and award passed by the Learned Tribunal qua issue no. 4 and 5 is quashed and set aside and in view of above, the matter is remanded to the Tribunal with the direction to decide the matter afresh qua issue no. 4 and 5 as early as possible, in the light of grounds raised by the Learned counsel for the appellant(s) in the aforesaid appeal and the judgment(s) 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.

The appellant is directed to appear before the Learned Tribunal on 22.5.2015.

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 him/them till disposal of the claim petition afresh by the Learned Tribunal qua aforesaid issue(s).

Stay application also stands disposed of accordingly.

(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