

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

S.B. Civil Writ Petition No.9951/2011

State of Rajasthan & Anr.

Versus

Permanent Lok Adalat & Ors.

DATE OF ORDER : 30/04/2014

HON'BLE MR. JUSTICE M.N. BHANDARI

Mr. Sanjeev Kumar Sharma, Addl. Govt. Counsel, for petitioner
Mr. Bipin Gupta, for respondent

With the consent of parties, writ petition is heard finally.

By this writ petition, a challenge is made to the order dated 05.01.2011 passed by Permanent Lok Adalat, Dholpur.

It is a case of failure of sterilization. A claim petition was moved by the respondent to claim a sum of Rs.3,30,000/- towards compensation. The Permanent Lok Adalat allowed compensation in a sum of Rs.1,25,000/- ignoring the fact that insurance was only for Rs.30,000/- thus the amount greater than insurance could not have been awarded. The Permanent Lok Adalat even failed to record the reasons and basis to award higher amount. In fact, the aforesaid was not even within the jurisdiction of Permanent Lok Adalat thus impugned order may be set aside.

Learned counsel for respondent submits that failure of sterilization was due to negligence of the petitioner thus a poor lady was rightly awarded a sum of Rs.1,25,000/-.

I have considered rival submissions made by the parties and perused the record.

It is not in dispute that on account of failure of sterilization, the insurance was for a sum of Rs.30,000/-. The Permanent Lok Adalat was thus entitled to award benefit arising out of the insurance because it is not having jurisdiction to decide the issue of damages and that too, without any basis. The amount of Rs.1,25,000/- has been awarded without showing basis. It was merely on the statement that claimant has two children apart from being a poor lady, the amount was awarded. At one place, their social status has been taken noted to award greater amount and at the same time, the respondents have been reckoned to be poor. Accordingly, award has been made for a sum of Rs.1,25,000/- by Permanent Lok Adalat, which cannot be accepted rather practice of passing cryptic order by the Permanent Lok Adalat is to be deprecated. This court has extended similar benefit in number of cases but it is only to the extent of amount of insurance. In view of the above, impugned order cannot be allowed to stand for awarding sum of Rs.1,25,000/- rather it is modified and award of claim of compensation is restricted to Rs.30,000/-.

With the aforesaid modification, writ petition stands disposed of. The amount of Rs.30,000/- would be paid to the respondent within a period of two months from the date of receipt of copy of this order. In case of failure, it will carry interest @9% p.a. after two months.

This disposes of stay application also.

[M.N.BHANDARI], J.

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed."

FATEH RAJ BOHRA, Sr. P.A.