

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

J U D G M E N T

S.B. Civil Misc. Appeal No.1477/2015
(Smt. Rani Bai & Ors. Versus Hafeej Mohammad &
Ors.)

DATE OF JUDGMENT : 29.07.2016

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Sandeep Mathur, counsel for appellant(s)
Mr. Tripurari Sharma, counsel for the respondent
(s)/Insurance Co.

This appeal has been filed by the appellant(s) against the judgment and award passed by the learned Tribunal.

At the very outset, learned counsel for the appellant(s) submits 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 aforesaid appeal(s). The finding of learned Tribunal on issue no. 1 & 3 is contrary to the material available on record. Thus, the impugned judgment and award passed by the learned Tribunal qua aforesaid issue(s) be quashed and set aside and the matter should be remanded to the learned Tribunal with the direction to decide the matter afresh qua aforesaid issue(s) in the light of grounds which he has raised by way of aforesaid appeal(s).

On the other hand, the learned counsel for the respondent(s)/Insurance Co though opposed the same but requested that the learned Tribunal may be directed to hear him/them at the time of deciding the matter afresh on the aforesaid issue/s, and he/they may be permitted to raise all the objections to the grounds as have been raised in this appeal.

I have heard learned counsel for the parties and carefully perused the relevant

material on record including the impugned judgment and award.

In my considered view, the learned Tribunal while passing the impugned judgment and award has not appreciated the facts of the case and the grounds raised by the learned counsel for the appellant(s) by way of instant appeal(s) in a proper manner and passed the impugned judgment and award surreptitiously. Thus, the impugned judgment and award passed by the learned Tribunal needs interference by this court.

In the result, the appeal(s) is/are partly allowed; the impugned judgment and award passed by learned Tribunal qua aforesaid issue(s) is quashed and set aside and the matter is remanded to the Tribunal with the direction to decide the matter afresh qua aforesaid issue(s) as early as possible, in the light of grounds raised by the learned counsel for the appellant(s) by way of the aforesaid appeal(s) 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.

Both the parties have requested for a specific date for their appearance before the Tribunal, hence they are directed to appear before the learned Tribunal on 5.10.2016.

Record, if any, be sent back.

(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