

Laxman Singh and Ors Vs. Veer Singh and Ors

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Court : Rajasthan Jodhpur

Decided On : Apr-17-2015

Appellant : Laxman Singh and Ors

Respondent : Veer Singh and Ors

Judgement :

[1].IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CIVIL REVIEW PETITION No.1/2014 (Laxman Singh (now dead) & ORS.versus Veer Singh & Ors.) IN S.B.CIVIL MISC.

APPEAL No.1102/2006 Date of Order: April 17, 2015.

PRESENT HON'BLE Mr.JUSTICE P.K.LOHRA, J.

Mr.S.P.Sharma, for the petitioneRs.BY THE COURT: Petitioner-appellants have laid this petition under Order XLVII Rule 1 CPC for reviewing judgment rendered by this Court on 6th September 2012 in Civil Misc.

Appeal No.1102 of 2006.

The bare necessary facts for examining this review petition are that feeling dismayed with the judgment and award dated 27th of September 2004 passed by Motor Accident Claims Tribunal, Jodhpur, the [2].petitioner-appellants preferred

appeal before this Court for seeking enhancement of the compensation quantified by the learned Tribunal.

This Court, after hearing the rival submissions, partly allowed the appeal by redetermining the compensation for loss of dependency by applying multiplier of 15 and finally enhanced the amount of compensation to the tune of Rs.40,000.

The Court has also ordered payment of interest on the enhanced amount of compensation @9% per annum from the date of filing of the appeal.

I have heard learned counsel for the petitioner and perused the review petition.

Precisely, the grounds set out in the review petition are in the nature of re-hearing of the appeal and deciding it afresh on merits.

Learned counsel for the review petitioner has urged that while rendering the judgment dated 6th of September 2012, this Court has not examined future prospects of the deceased for quantifying just and reasonable compensation, and therefore, this error, which has crept in the judgment under review, is an error apparent on the face of record.

[3].Learned counsel for the petitioner in support of his contentions has placed reliance on following judgments:

1) U.P.S.R.T.C.versus Lallu Ram & Anr.

[MACD20141) (All.) 378].2) ICICI Lombard General Insurance Co.LTD.versus Angrej Singh & ORS.[MACD20142) (Delhi) 871].3) Sona & ORS.versus Ajit Mohammad & ORS.[MACD20141) (Raj.) 29].4) Malthesh Gudda Pooja versus State of Karnataka [2011 (7) Supreme 468].5) Inderchand Jain (D) through L.Rs.versus Motilal (D) through L.Rs.[2009 CDR1014(SC)].In most of the judgments, the lis involved was quantum of compensation awarded by the learned Tribunal.

While considering quantum of compensation and examining merits of the individual case, Court has enhanced the amount of compensation under different heads.

As all these precedents dilated on merits of the case, these judgments cannot render any assistance to the petitioner because in review petition merits of the case cannot be examined and the concern of the Court is to see as to whether there is any error apparent on the face of record in the impugned judgment, which is subject matter of review.

The remaining one judgment of [4].Honble Apex Court, namely, Malthesh Gudda Pooja (supra) relates to the maintainability of the review before another Bench and therefore the same is of no avail to the petitioner.

The other judgment of Honble Apex Court in Inderchand Jain (D) through L.Rs.(supra) postulates with clarity and precision that re-appreciation of evidence is beyond the scope of review jurisdiction.

Therefore, the ratio decidendi of that judgment cannot render any assistance to the petitioner, rather on the strength of that verdict review petition is not entertainable.

After hearing learned counsel for the petitioner and on perusal of the impugned judgment, in my opinion, there is no error apparent on the face of record warranting review of the same.

If the Court has taken its conscious decision for partly allowing the appeal, may be the petitioner is not satisfied with the judgment, the same cannot be construed as a ground for reviewing the judgment.

Power of review is to be exercised sparingly as the same is a limited jurisdiction.

It is trite that in the garb of a review, this Court would not rehear the party on the point of law afresh and, even if two views are possible [5].on the point involved, the same cannot be set out as a ground of review.

Honble Apex Court in Sow Chandra Kante and Anr.

versus Sheikh Habib [(1975) 1 SCC674, while examining the scope of review, held: .

May be, we were not right in refusing special leave in the fiRs.round; but, once an order has been passed by this Court, a review thereof must be subject to the rules of the game and cannot be lightly entertained.

A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.

A mere repetition, through different counsel, of old and over-ruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient.

The very strict need for compliance with these factors is the rationale behind the insistence of counsel's certificate which should "not be a routine affair or a habitual step.

It is neither fairness to the court which decided nor awareness of the precious public time lost what with a huge back-log of dockets waiting in the queue for disposal, for counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost.

The Bench and the Bar, we are sure, are jointly concerned in the conservation of judicial time for maximum use.

We regret to say that this case is typical of the unfortunate but frequent phenomenon of repeat performance with the review label as passport.

Nothing which we did not hear then has been heard now, except a couple of rulings on points earlier put forward.

May be, as counsel now urges [6].and then pressed, our order refusing special leave was capable of a different course.

The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality.

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It is trite that a review of judgment in a case is serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave mistake has crept in earlier by the judicial fallibility.

In totality, I am unable to find any patent error involved in the matter warranting review.

Reliance in this behalf can be profitably made to a decision of Honble Apex Court in Nandi Verdhan Jain versus Chander Kanta Jain and Anr.

[2002 9 SCC471.

Resultantly, this review petition is bereft of any merit and the same is accordingly dismissed.

(P.K.LOHRA).J.

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