

Sushma Lata Vs. Motor Accident Claims Tribunal and ors.

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Court : Rajasthan

Decided On : May-03-1988

Reported in : 1(1989)ACC101

Judge : S.C. Agrawal and; Farooq Hasan, JJ.

Appellant : Sushma Lata

Respondent : Motor Accident Claims Tribunal and ors.

Judgement :

S.C. Agrawal, J.

1. This writ petition is directed against the Award (Annexure 5) dated 5th March, 1986 made by the Motor Accident Claims Tribunal, Jaipur (hereinafter referred to as 'the Tribunal') The petitioner was injured in an accident which took place on 19th November, 1981 and she sustained injury on her leg. The petitioner submitted a claim before the Tribunal in which she claimed an amount of Rs. 35,400/- against the respondents Nos. 2 to 4. By the impugned Award the said claim of the petitioner was settled for a sum of Rs. 12,000/- payable by respondent No. 4. The said Award was given on the basis of a compromise arrived at by the counsel for the petitioner and counsel for respondent No. 4 during the course of Lok Adalat. The petitioner has challenged the validity of the said Award on the ground that the said compromise was entered by her counsel without her authority and that the said compromise is contrary to the provisions contained in Order 23

Rule 3 C.P.C.

2. we find that Under Section 110-D of the Motor Vehicles Act an appeal lies to this Court against the said Award and the period of limitation for filing the said appeal is 90 days. Certified copy of the Award filed with the writ petition shows that the petitioner had submitted an application for grant of certified copy of the Award on 17th March, 1986 and the said certified copy was ready for delivery on 2nd April, 1986 and was delivered to the petitioner on 2nd April, 1986. If the time taken in obtaining the certified copy of the Award is taken into consideration, the period of limitation for filing the appeal Under Section 110-D of the Motor Vehicles Act had expired long before the petitioner approached this Court by filing this writ petition on 15th July, 1986. In other words the petitioner has approached this Court by filing the writ petition after period of limitation for filing appeal against the said Award had expired. In our opinion the petitioner cannot be permitted to invoke jurisdiction of this Court under Article 226 of the Constitution when a remedy of appeal Under Section 110-D of the Motor Vehicles Act was available to her and she failed to avail the said remedy by filing appeal within the prescribed period of limitation.

3. Shri Sharma, the learned Counsel for the petitioner has urged that no appeal could be filed against the Award because the said Award was given by consent and in view of Section 96(3) C.P.C. no appeal lies from a decree passed by the Court with the consent of the parties. Shri Sharma has urged that the provisions of Code of Civil Procedure are applicable to claims under the Motor Vehicles Act. We are unable to agree with the aforesaid submission. In the first place the case of the petitioner is that the Award was given without the consent of the petitioner and is, therefore, bad and, therefore, the bar of Section 96(3) C.P.C. could not have been applicable. Moreover, against the Awards made by the Tribunal, there is a separate provision contained in Section 110-D of the Motor Vehicles Act and it does not contain any limitation similar to that contained in Section 96(3) C.P.C. It cannot, therefore, be said that the petitioner could not have filed an appeal against the impugned Award under Section 110-D of the Motor Vehicles Act.

4 In the circumstances, we are of the opinion that this writ petition cannot be entertained and it is, therefore, dismissed. No order as to costs.

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