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Court : Jammu and Kashmir

Decided On : Nov-14-2011

Judge : J.P. Singh

Appeal No. : OWP. No.210 of 2008

Appellant : Bachan Kour and Others

Respondent : Mega Lok Adalat and Others

Judgement :

1. The petitioners are the parents, sisters and brother of Jasbir Singh alias Kala, who succumbed to the injuries received in motor vehicular accident on October 30, 2005. They preferred Claim for Rs.42,15,000/- as compensation for death of Jasbir Singh, who according to them had died because of the rash and negligent driving of bus bearing Registration No. JK02C-8139, which hit the deceased's scooter at Langotia Morh, Kotli Mian Fateh-R.S. Pura, before the Motor Accidents Claims Tribunal, Jammu.

2. The petitioners' claim was settled for an amount of Rs.2.25 lac in Mega Lok Adalat, Jammu on 9-2-2008 in presence of petitioners' Advocate and the Advocate appearing for the respondents.

3. The petitioners are aggrieved by the Award. They have approached this Court questioning the settlement arrived at by their learned Advocate and the award made by the Mega Lok Adalat on the basis of the settlement.

4. Petitioners learned counsel submits that the petitioners had not authorized their learned Advocate for any mediation, negotiation or conciliation; and the Award of Lok Adalat, which, looked from any angle, was not just and reasonable compensation for the death of Jasbir Singh, was even otherwise unsustainable as reference to Lok Adalat itself was in contravention of the provisions of Section 19 of the Jammu and Kashmir Legal Services Authorities Act, 1997.

5. Learned counsel for the Insurance Company, on the other hand, submitted that bound by the act of their Advocate, the petitioners cannot invoke the Extra Ordinary Writ Jurisdiction of the Court to seek annulment of the Award made with the consent and approval of the petitioners' Advocate.

6. Considered the submissions of learned counsel for the parties in the light of the case law cited at bar.

7. Perusal of the records reveals that the Tribunal, in seizin of the petitioners' claim petition, had not itself made reference to Lok Adalat for settlement of dispute pending before it.

8. The parties to the claim petition too do not appear to have requested the Tribunal for referring the matter to Lok Adalat.

9. In the circumstances, when neither the parties had agreed for settlement of their dispute by reference to Lok Adalat, nor was there any reference by the Tribunal to the Lok Adalat to settle the petitioners' claim, the Award made by the Lok Adalat, on the statements of learned counsel for the parties, cannot, therefore, be justified, for, the initial reference being bad in law, the subsequent consent of learned counsel for the petitioners for settlement of petitioners' claim, cannot validate the Award of Lok Adalat which was otherwise debarred from taking cognizance of petitioners' claim petition in view of the provisions of Section 19 of the Legal Services Authorities Act, which contemplate cognizance by Lok Adalat only if the parties to the dispute agree therefor or any of the parties had made application for referring the case to the Lok Adalat for settlement, or the Court, after giving reasonable opportunity of being heard to the parties, was satisfied that the matter was an appropriate one which needed cognizance by the Lok Adalat.

10. The respondents' plea that petitioners' Writ Petition was not maintainable, is found without substance in view of the law laid down by Hon'ble Supreme Court of India in State of Punjab and another v. Jalour Singh and others, reported as AIR 2008 SC 1209, where while dealing with the issue, it was held as follows:

"It is true that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil Court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed in such a situation, the High Court ought to have heard and disposed of the appeal on merits."

11. The Lok Adalat is found to have exercised jurisdiction in making award in the absence of any legal reference to it in terms of Section 19 of the Legal Services Authorities Act. Its award cannot thus be sustained.

12. This petition, therefore, succeeds and is, accordingly, allowed, quashing Mega Lok Adalat's Award dated 9-2-2008 in claim petition No.100 of 2006. The petitioners claim shall revive for its consideration afresh in accordance with law.

13. Returned the records to the Tribunal.

Petition allowed.

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