

Court No. - 17

Case :- WRIT - C No. - 1004655 of 2004

Petitioner :- Smt. Vidya Devi

Respondent :- Kalyan Das And 2 Ors.

Counsel for Petitioner :- Tej Bahadur Verma, M.E. Khan

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the respondent no.4.

2. As per office report dated 18.10.2023, notice to the respondent nos.1 and 2 has been sufficiently served through publication.

3. The present petition has been filed by the petitioner assailing the proceedings before the Motor Accident Claims Tribunal, Lucknow whereby claim was filed by the opposite party nos. 1 and 2 alleging that one Phool Das had died due to an accident on 24.12.1997 at 11.30 am at Matiyari Tiraha, P.S.- Chihat, Lucknow on account of rash and negligent driving by the driver of the vehicle Truck No. UPX-4711. The deceased at the time of accident was 58 years old and his income was Rs. 2,000/- per month.

4. Learned counsel for the petitioner has submitted that the petitioner who is the owner of the vehicle had put in appearance before the Tribunal and filed the objections, but subsequently did not appear before the Tribunal and consequently, the proceedings proceeded ex-parte against the petitioner. The Tribunal by means of its judgement dated 19.11.2002 has recorded the aspect of accident having taken place on 24.12.1997 and in the third paragraph, it had merely stated that Kalyan Das, PW-1 and Jaypal PW-2 have given the statement which can be relied and consequently, the claims have been allowed. There is no discussion about the statement given by PW-1 and PW-2. There is no reason indicating as to why the testimony has been believed. No other evidence has either been considered or discussed and in the most cryptic manner, the claim has been allowed and an amount of Rs. 6 lakhs has been awarded against the petitioner. The petitioner has also challenged the order dated 22.7.2004 whereby the application for recall of the said order has also been rejected.

5. Learned counsel for the petitioner has submitted that it was incumbent upon the Tribunal to duly consider the facts of the case, the evidence which has been produced and after discussing the same, the award could have been passed. He submits that no reasons have been given for believing the version of the PW-1 and PW-2 and consequently, has accepted the testimony as such. The impugned order on the face of it is in violation of all canons of judicial determination as neither the facts of the case have been discussed nor the provision of law has been considered nor any evidence has been discussed in the entire judgement.

6. It has further been submitted by the learned counsel for the petitioner that even if the matter is not contested, the Tribunal is duty bound to consider all the aspects of the case before either allowing the claim or rejecting the same. Without considering the rival contentions or discussing the facts of the case, no claims could have been allowed.

7. Learned Standing Counsel has opposed the prayer but could not dispute the aforesaid facts.

8. While giving a judgement the Court should make sure that all the essentials are covered in it namely:

1. A concise statement of the case

2. the points for determination

3. the decision thereon, and

4. the reasons for such decision

9. In ***Balram Taneja Vs Sunil Madan [AIR 1999 SC 3381]***, the Supreme Court held that "a Judge cannot merely say "suit decreed" or "suit dismissed". The whole process of reasoning has to be set out for deciding the case one way or the other."

10. Before deciding an issue or recording finding on a charge, the relevant evidence must be discussed and appreciated. "Appreciation" means assessing the worth, value and quality of a particular piece of evidence. Not bare reproduction of the evidence rather a systematic, scientific and methodical evaluation of evidence. Every Judge has his own style of discussing the evidence. It is, however, always better to discuss the evidence before giving an opinion to rely upon it.

11. The soul of a judgment are the reasons for arriving at the findings. These are also called the opinion of a Judge. There is

no rigid rule, as to how a finding may be recorded. The Judge, however, should give his reasons. It is not sufficient to say that he believes the evidence or agrees with the argument. The Judge must give his reasons for such belief and agreement.

12. Thus, a judgement which does not contain all these elements, as is the case in the present situation, shall never be considered adequate.

13. In light of the above, the writ petition is **allowed**. Consequently, the impugned orders dated 19.11.2022 and 22.7.2004 are set aside.

14. The matter be remitted to the Tribunal for fresh determination in accordance with law.

15. Let necessary exercise be done expeditiously within three months, if possible from the date a certified copy of this order is placed before them. Though before this Court the claimants have not appeared despite service, but the Tribunal shall proceed in accordance with law.

(Alok Mathur,J.)

Order Date :- 18.10.2023
Shravan