

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.947 of 2016

ORDER:

The unsuccessful petitioner filed this revision under Article 227 of the constitution of India having been aggrieved of the Tribunal's reluctance to entertain his application in I.A.(SR).No.906 of 2015 in M.V.O.P.No.349 of 1996 filed for permission to withdraw his share of compensation awarded in the above claim petition vide award dated 24.11.2000.

I have heard the submissions of Sri Bankatlal Mandhani, learned counsel for petitioner.

I have perused the material record.

As per the submissions and the material record, the facts which are necessary to be stated as a prelude to this order, in brief, are as follows: 'On the death of one Korra Veerabhadru, the husband of the 3rd respondent in the O.P., the claimants Korra Chandru and Korra Sampath, who are said to be the father and the son of the deceased, filed the claim petition by impleading the wife of the deceased as respondent No.3 and also the others as parties to the claim petition. The respondents 1 and 2 are stated to be the driver and owner of the vehicle and respondents 4 and 5 are stated to be the employer of the deceased and the Insurance Company. The award was passed on merits, after full-fledged trial. Be it noted that the 2nd claimant was a minor and he was described in the claim petition as Korra Sampath, aged 4 years. However, the present petition is filed by the present revision petitioner for permission to withdraw the compensation awarded to the said 2nd claimant inter alia contending that he is the 2nd claimant and that his name is Korra Sampath @ Sekhar and that his date of birth is 21.08.1995 as per the Secondary School Certificate issued by the Board of Secondary Education, A.P., Hyderabad. In support of the request in the said

application, the petitioner also filed the affidavit of the 3rd respondent in the O.P., the mother, wherein, she affirmed that the 2nd claimant is no other than the present petitioner. It is not in dispute that the petitioner is a major by now. However, the only controversy now is about the identity of the petitioner herein. The issue is as to whether or not the petitioner is the 2nd claimant in the OP. Though the Tribunal did not entertain the application of the petitioner, in the aforesaid circumstances, it is apparent from the record that no opportunity was given to the petitioner herein to substantiate his claim by permitting him to adduce oral and documentary evidence. In that view of the matter, learned counsel for petitioner would submit that the petitioner may be given another opportunity by remitting I.A.(SR).No.906 of 2015 to the Tribunal with necessary directions.

Having regard to the facts and the submissions made, the civil revision petition is allowed and the order impugned is set aside and the petitioner is permitted to re-present I.A. (SR).No.906 of 2015 in M.V.O.P.No.349 of 1996 on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Warangal, along with all necessary documents, if any, by making an appropriate submission to the Tribunal as to the maintainability of the petition and make a request to the Tribunal to entertain his application and permit him to adduce oral and documentary evidence in support of his claim.

The Registry is directed to return the original I.A. (SR).No.906 of 2015 to the petitioner to enable him to comply with the orders of this Court.

Pending miscellaneous applications, if any, shall stand closed.

M.SEETHARAMA MURTI, J

18th November 2016

ajr