HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 73 of 2016

The New India Insurance Company Limited Thakkar Bhawan, G. E. Road, Bhilai, District Durg (Chhattisgarh).........(Resopndent No. 5)

----Applicant

Versus

1. Smt. Rukhmani Devi @ Rukma Devi W/o Late Shri Gopaldas Agrawal, Aged About 51 Years
2. Minor Harsh S/o Ajay Agrawal, Aged About 5 Years Through Grand Mother Smt. Rukhmani Devi

Both are residence of Math Mandir Chowk, Dhamtari, Thana & Tahsil Dhamtari, Civil & Revenue District Dhamtari (Chhattisgarh).

3. Sanjeet Singh S/o Sampurna Singh, Aged About 24 Years R/o Mahesh Nagar, Rajnandgaon, Thana Kotwali, Civil & Revenue District Rajnandgaon
4. Sampurna Singh (Died - Deleted)
5. Amit S/o Lalita Prasad Sharma Aged About 24 Years
6. Ashok Kumar S/o Balram Agrawal, Aged About 31 Years

Both are R/o Village Than Khamhariya, P. S. Khamhariya, Civil & Revenue District Durg

---- Respondents

For applicant - Shri Azad Siddiqui, Advocate.
For Respondents No.1 and 2 – Shri D. Kushwaha, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

18/04/2017

1. Heard the application to recall the order dated 12/12/2015 passed in National Lok Adalat in MAC No.160/2015.

2. Brief facts of this case are that Rukhmani Devi and minor son had filed a claim petition before the court below against Sanjeet Singh and others wherein the New India Insurance Company Limited was also a party. Claim case was decided by an order dated 29/01/2015 wherein award of Rs.1,55,000/- was passed in favour of the applicants

Rukhmani Devi and minor son Harsh. In such award insurance company was exonerated of its liability. Subsequently, appeal was filed by Smt. Rukhmani Devi and another for enhancement of the award which was registered as MAC No.160/2015 before the High Court. The aforesaid appeal came up for hearing before the National Lok Adalat and by compromise order dated 12/12/2015 it was directed that the insurance company shall pay amount of Rs.2,05,000/- by way of compensation in addition to the amount awarded by the learned Tribunal to the appellant within 60 days from the date of such order and otherwise interest @ 12% per annum shall be chargeable. Therefore, an application for recalling order dated 12/12/2015 was filed requesting that said order be recalled as insurance company has been saddled with liability whereas in original award no liability was fastened over the insurance company.

3. It is contended on behalf of the applicant that by accidental slip consent was given by insurance company and accordingly the company has been held liable though insurance company was originally exonerated from payment of the compensation. Consequently, order dated 12/12/2015 may be recalled.

4. Learned counsel for respondents No.1 and 2 claimants do not object to such recalling of the order.

5. Perused the original award dated 29/01/2015. In categorical terms at para 8 and 12.4 of the award it states that the insurance company was not liable to pay any compensation. The Lok Adalat award shows that the insurance company has agreed to further pay amount of Rs.2,05,000/- in addition to the award made. It appears that submission made by the insurance company that by accidental slip

such statement was made appears to be bonafide and reasonable.

6. Consequently, order dated 12^{th} December, 2015 passed in MAC No.160/2015 in National Lok Adalat is hereby recalled. Now MAC No.160/2015 is directed to be listed in its original side on merit.

7. With such observation, MCC is disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE

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