

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.***

CWP No.10092 of 2018

Date of Decision: 25.04.2018

Smt. Nirmala Devi

....Petitioner

Versus

Reliance General Insurance Co. Ltd. & others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. R.S. Mamli, Advocate
for the petitioner.

DAYA CHAUDHARY, J.

The petitioner has approached this Court by way of filing the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of impugned award passed by Permanent Lok Adalat dated 04.02.2016 (Annexure P-1), whereby, the compensation on the death of Pritam, who had died due to accident, has not been granted.

Briefly, the facts of the case, as made out in the present petition, are that the petitioner filed an application under Section 22(c) of the Legal Services Authorities Act, 1987 for settlement of the dispute on account of damage of vehicle TATA 207 Pickup bearing No.HR-64-4696 and death of Baljit Singh son of Pritam Singh and Nirmala Devi.

Reply to the application was filed and thereafter, the claim of the petitioner has been dismissed vide award dated 04.02.2016 which is

subject matter of challenge in the present petition.

Learned counsel for the petitioner submits that it was proved on record that Baljit Singh had died in the accident on vehicle No.HR-64-4696, which was duly insured with the Insurance Company and was valid from 09.02.2012 to 08.02.2013. The DDR was also recorded immediately on the death of Baljit Singh. Learned counsel also submits that while declining the claim of the petitioner, it has not been taken into consideration that the accident had occurred as TATA 407 met with an accident and Baljit Singh was driving the vehicle who had died in said accident. Learned counsel also submits that factum of death of Baljit Singh has been proved by the Chowkidar and Lambardar of the village. A certificate was also issued by one Urmila, AWW and Sonia AWW regarding the death of Baljit Singh. All the documents were filed before the permanent Lok Adalat to prove that the accident had occurred but the same were not taken into consideration. Learned counsel also submits that the insurance premium paid has not been disputed by the respondents but still the same has been rejected. At the end, learned counsel for the petitioner submits that the impugned award is not only illegal, unlawful but the same has been passed without any appreciation of evidence available on record and is liable to be set aside.

Heard the arguments of learned counsel for the petitioner and have also perused the documents available on the file as well as impugned award dated 04.02.2016.

Admittedly, the petitioner filed an application under Section 22C of the Legal Service Authorities Act, 1987 on account of damage of vehicle TATA 207 Pick-up and death of Baljit Singh, the son of the petitioner. The claim of the petitioner has been rejected on the ground that it

could not be proved on record that the death had occurred due to accident. The DDR was recorded on 04.08.2012, whereas, the accident had occurred on 06.07.2012. It is also mentioned in the impugned award that no postmortem was got conducted and no inquest report under Section 174 Cr.P.C was prepared. It was not proved on record that the accident had occurred and the petitioner was not entitled for any compensation.

There was no reliable evidence on the file and simply by relying upon the copy of DDR, which is only a piece of information, the claim petition has been filed. There was no other cogent and reliable evidence to prove that the death of Baljit Singh took place in a motor vehicular accident. The relevant portion of the award dated 04.02.2016 is reproduced as under :-

“ Further the most cogent evidence would have been the Post Mortem Report of Baljit Singh. However, on the file, no PMR report has been produced. No doubt, in the report Ex. A15 submitted by Sat Pal Singh, MHC, PS Cheeka, it has been written that the death being accidental, no post mortem was got conducted and no inquest report under Section 174 Cr.P.C was prepared. However, the report to the above effect does not convince the court as the accident if any have taken place on 06.07.2012 and the DDR being dated 04.08.2012, thus there was no question of holding any inquest proceedings.”

In the abovesaid findings, it has been held that there was no evidence to prove the death due to accident. Not only an un-explained delay was there but there was no connecting evidence. The delay of approximately one month has not been explained. In spite of accidental death, no postmortem was got conducted and no inquest report under

Section 174 Cr.P.C was prepared. In absence of all these connecting evidence, it could not be proved on record that it was an accidental death.

Similar issue was there before the Rajasthan High Court in case ***Mam Chand Saini vs Mohan Lal and another 2015(65) RCR (Civil) 456.*** In said case, the FIR was registered after delay of 5 to 6 days and the delay was not explained. Nothing was brought on record to prove that the accident had occurred and injuries were sustained because of accident. The claim petition was dismissed by the Tribunal and it was held by the Rajasthan High Court that the claim petition was rightly dismissed by the Tribunal.

In view of the findings recorded by the Permanent Lok Adalat, I do not find any infirmity in the impugned award dated 04.02.2016 and the present petition, being devoid of any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

25.04.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No