

Ct.
No.
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C.O. 1734 of 2016

Anupama Mondal & Ors.

-Versus-

ICICI Lombard General Insurance Co. Ltd. & Anr.

Mr. Uday Shankar Chattopadhyay

Ms. Rajarshree Tah

Ms. Trisha Rakshit

Ms. Aishwarya Datta

...For the Petitioners

Affidavit-of-service filed on behalf of the petitioners is taken on record.

Opposite parties are not represented.

Petitioners have preferred this application under Article 227 of the Constitution of India against order No. 15 dated 21st March, 2016 passed by the learned Additional District Judge, 5th Court, Burdwan-cum-Motor accident Claims Tribunal in connection with the M.A.C. Case No. 70 of 2014 (renumbered as MAC Case No. 426 of 2014).

By the impugned order the Court below rejected the petitioners' petition under Section 151 of the Code of Civil Procedure. Petitioners contended that the petitioners and the proforma opposite party filed an application under Section 166 of the Motor Vehicle Act, 1988 before the said Tribunal in consequence of the death of one Tarak Mondal, who died due to motor accident on 11th August, 2014 at Burdwan. In the said prayer for compensation, petitioners have claimed Rs. 11 lakhs for the premature death of aforesaid Tarak Mondal, who used to earn Rs. 5,000/- per month at the time of his death.

Petitioners contended that the aforesaid claim case was fixed for filing written statement by the opposite party

on 03.06.2015 but on that day no judicial work was carried out due to resolution taken by local Bar and accordingly next date was fixed on 15.07.2015 for filing written statement by the opposite party/ Insurance company. Petitioner further contended that the petitioners came to know on 08.10.2015 that said MAC case had been disposed of before the permanent Lok Adalat on 25th June, 2015 and claim amount has been settled by the Lok Adalat at an amount of Rs. 3,60,000/- only against the claim of Rs. 11,00,000/-. It is alleged that the petitioners did not file any petition to settle the matter before the Lok Adalat nor they have given consent to settle the dispute amicably through Lok Adalat. Though said order passed by Lok Adalat bears signature of opposite parties and it also bears signature of the Advocate for the petitioners but the petitioners did not put signature in the compromise petition as well as in the order passed by the permanent Lok Adalat and as such order passed by Lok Adalat on 25.06.2015 is not all binding upon the present petitioners. It is further contended that only two petitioners/ claimants out of six petitioners had prayed for settling the matter through permanent Lok Adalat.

The petitioners herein thereafter filed an application under Section 151 of the Code of Civil Procedure praying for setting aside the order passed by the Permanent Lok adalat on 25th June, 2015 on the ground that the petitioners herein had not given any consent to settle the instant case and they have also not put their signature in the order sheet and as such the order dated 25th June, 2015 passed by the permanent Lok Adalat cannot be called as an award and as such the award is not enforceable.

After hearing the parties, learned Court below by

the impugned order was pleased to reject the petitioners' aforesaid application under Section 151 of the Code.

Mr. Uday Shankar Chattopadhyay, learned Counsel appearing on behalf of the petitioner submits that under Section 20(2) of the Legal Services Authorities Act, 1987 (hereinafter referred to as Act of 1987), no matter is to be referred to the Lok Adalat except giving a reasonable opportunity of being heard to the other party. In the instant case the petitioner did not know that the matter would be referred to the Lok Adalat on the basis of compromise petition filed by two claimants and no chance of hearing was given to the present petitioners in respect of compromise.

Learned Counsel further referred to Section 20(6) of the said Act of 1987 and contended that where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the Lok Adalat is supposed to advise the parties to seek remedies in Court. He further submits that in the instant case petitioners and the proforma opposite party refused to sign in the concerned order sheet as because they were not satisfied with the settlement amount and as such no settlement took place between the parties and therefore the permanent Lok Adalat ought to have returned the case to the learned Tribunal for disposal on merit.

I have considered the submissions made by the petitioner. The accident allegedly took place on 11th August, 2014 and the claimants have made their application for compensation in the self-same year of 2014. Since then the claim application remains pending. On perusal of the order of the permanent Lok Adalat it appears that the order dated 25th June, 2015 does not bear signature of any of the

petitioners. It also appears from the later order passed on the self-same date by the Lok adalat that the petitioners who attended Lok Adalat refused to put signature on the said order sheet. Aforesaid facts and circumstances clearly reveals that the petitioners never agreed to the settled amount.

The object of the Act of 1987 inter alia as can be noticed from the preamble to the Act, also is the organization of Lok Adalats. The Jurisdiction of the Lok Adalat under section 20 is to facilitate a settlement of dispute between the parties in a case, but it has no adjudicatory role, nor it can decide a lis. All that it can do is to bring about a genuine compromise or settlement.

In such view of the matter an order passed by the Lok Adalat which does not bear the signature of the claimants/petitioners to the settlement, cannot give validity to the award. Though the order dated 25th June, 2015 passed by the Lok Adalat bears signature of the counsel for the petitioners but that would not be enough to give validity to the award. Taking a clue from section 22-C (7) of the Legal Services Authorities Act of 1987, which deals with pre-litigation conciliation and settlement, it can very well be concluded that when by a conciliatory process, the parties reached at an agreement on the settlement of the dispute, they shall sign on the order drafted/prepared on the basis of such settlement agreement and the permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned. Since in the present case such procedure has not been adopted by the Lok Adalat, and parties have refused to put signature on settlement agreement, the order of Lok Adalat dated 25th June, 2015 cannot be called as executable “Award” under

section 21 of the Act of 1987.

In such view of the matter, the order impugned dated 21st March, 2016 is hereby set aside, since no valid award has been passed in the eye of law by the permanent Lok Adalat dated 25th June, 2016, the Tribunal below is directed to dispose of the claim application on merit at the earliest preferably within a period of six months from the date of communication of this order, since the matter is pending for a long time. However, this order will not preclude the parties from making any fresh settlement and/or pray for referring the matter further before the Lok Adalat seeking conciliatory settlement.

The revisional application, being C.O. 1734 of 2016 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)