



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1352 OF 2023

URMILA CHAND

....Appellant (s)

VERSUS

SONU CHAND AND OTHERS

....Respondent(s)

JUDGMENT

N.V. ANJARIA, J.

The challenge in this appeal is directed against the judgment and order of the Gauhati High Court dated 22nd January, 2021. The High Court, refused to exercise its supervisory jurisdiction dismissing the Civil Revision Petition, in turn confirming order dated 12.01.2018 passed by the Motor Vehicle Claims Tribunal, Tinsukia in Miscellaneous (J) Case No. 6 of 2015.

2. By the said order, the Motor Vehicle Claims Tribunal (hereinafter referred to as the 'Tribunal') had rejected the review petition against the order dated 21.04.2015 on the ground that it was barred by limitation. As per the order brought under review, the Tribunal had disbursed the amount of compensation. A cheque of Rs. 1,00,000/- was given in favour of the appellant herein who was the mother, whereas Rs. 6,26,000/- was given to the respondent No. 1, daughter in law. Further, cheques for Rs. 3,00,000/- each was directed to be deposited in fixed deposit in the name of minor respondent Nos. 2 and 3 – Claimants No. 2 and 3.

3. In the origin, it was the proceedings of Motor Accident Claim Case No. 125 of 2009 instituted by appellant and respondent Nos. 2 and 3 who were mother, daughter in law and minor children respectively, of one Mr. Priyank Chand who died in vehicular accident.

3.1 The accident occurred on 27.02.2009. The said deceased Mr. Prayank Chand was going in an Indica Car

bearing AS-23F-0934 which belonged to his friend. Truck bearing No. AMB-0551 dashed with the car which was on way from Tinsukia to Makum side. Mr. Prayank who was sitting in the front side suffered serious injury in the accident and succumbed to death. In the aforesaid petition filed by the claimants, the Tribunal awarded a sum of Rs. 11,82,000/- as per its judgment and award dated 11.11.2011.

3.2 The High Court by an interim order passed in Civil Appeal No. 79 of 2012, in which the aforesaid judgment and award was challenged, by the Insurance Company, granted interim relief of payment of Rs. 1,00,000/- each to the four claimants. The appeal of the Insurance Company was ultimately dismissed by the High Court as per judgment and order dated 09.09.2014, upholding the award passed by the Tribunal.

3.3 It was upon a joint application that the disbursal order came to be passed by the Tribunal on 21.04.2015. As stated above the Tribunal issued cheque of Rs.

1,00,000/- in favour of the appellant herein, a cheque of Rs. 6,26,000/- with interest to respondent No. 1-claimants and directed cheques for Rs. 3,00,000/- each to be kept in the fixed deposit in the name of the minor claimants – respondent Nos. 1 and 2.

3.4 It appears that subsequently the appellant harboured some grievances about the disbursement. After filing an application under the Right to Information, she filed a review petition against the said order dated 21.04.2015. The review petition came to be dismissed by the Tribunal on the ground that it was delayed by 6 months and 22 days. The delay was sought to be explained by the appellant stating that she had undergone surgery between the period from 25.05.2015 to 9.12.2015. The Tribunal dismissed the review application holding that the appellant was unable to show any document to substantiate the ground of medical illness or about having undergone the surgery.

3.5 It further appears from the facts on record that the appellant had certain differences with her Advocates. She was dissatisfied with the advocate who appeared for her from the District Legal Services Authority. It is appellant's own saying that she had taken legal assistance from four different counsels be as it may.

3.6 Against the order of the Tribunal dismissing the review application, the appellant approached the High Court by filing Civil Revision Application. The same was also dismissed as stated above, giving rise to the present appeal before this Court, on various grounds. Learned counsel for both the parties made submissions and also filed written arguments. They were also considered.

4. Learned counsel for the appellant Mr. Pranav Sachdeva submitted that the Tribunal as well as the High Court erred in not condoning the delay of 6 months. He submitted that the order of the Tribunal which was sought to be reviewed by the appellant, was grossly unfair, therefore was unsustainable. It was further

submitted that the Tribunal paid only Rs. 1,00,000/- to the appellant widow, whereas total amount awarded to all the claimants was much higher. Learned counsel for the petitioner submitted that the apportionment was contrary to the principles of successions law in view that mother is a class 1 legal heir. It was submitted that injustice was done to her in disbursement.

4.1 Learned counsel for the appellant then highlighted all the chronology of events submit that the son of the appellant was tactically prevented from entering the court room. It was submitted that when the order for disbursement was passed by the Tribunal the appellant and her son were entering the court room but the Tribunal pronounced the order.

4.2 On the other hand, learned counsel for the respondent Ms. Anshula Vijay Kumar Grover, submitted that after the judgment and award came to be passed by the Claims Tribunal awarding a total sum of Rs. 11,82,000/- by order dated 21.04.2015 for disbursement

amongst the four claimants was passed. It was emphasized that at the time of disbursement, the parties including the appellant herein were present in the court and also interacted with one another. It was submitted that the appellant did accept Rs. 1,00,000/- and put her signature on the order sheet, accepting the cheque amount. It was submitted that filing of the review petition was an afterthought. The appellant had conducted herself voluntarily in accepting the amount and putting her signature, submitted by the learned counsel for the appellant.

4.3 Both the learned counsels, submitted their respective written submission, which were also confirmed by the Court.

5. While not entertaining the challenge to the rejection of the review application and confirming the order rejecting review application on the ground of delay, the High Court also considered certain manifested aspects of merits. It was observed that “it is seen not only

that respondent Nos. 1 and 5 had taken significant stand that petitioner was present and on acceptance of cheque, had put her signature on the order sheet of the learned Tribunal, but the said stand is affirmed by the petitioner.”

5.1 In Para 8 of the order of the High Court proceeded to observe,

“.....Therefore, it is apparent that at the time of receiving the cheque for Rs.1.00 lakh on 21.04.2015, the petitioner did not raise any grievance. Assuming that the petitioner did not understand the implication of receiving cheque for Rs.1.00 lakh, but there is no denying that as on 21.05.2015, the final award had already been deposited before the learned Tribunal and that this Court had already dismissed MAC Appeal no. 79/2012 by judgment dated 02.09.2014. Therefore, the only conclusion that can be reached is that the petitioner having consciously and voluntarily accepted the cheque for Rs.1.00 lakh, having successfully encashed it without any demur, had made claim for more money as her share of compensation.

5.1.1 It was further stated in the same paragraph,

The petitioner has not made any attempt to explain why on 21.04.2015, when she was present before the learned Tribunal with her son, she did not apply for certified copy of the order-sheet of 21.04.2015 despite putting her signature on the order-sheet. Therefore, the petitioner had personal knowledge of the proceeding of 21.04.2015, as such, the projection that she had spent time to call for information under RTI Act appears to be merely a ploy to create a story to cover up for the laches and delay in applying for review.

5.2 In Para 9 following findings were recorded,

“It is seen that in the present revision, the petitioner had not disclosed that she had put her signature in the order sheet while receiving the cheque for Rs.1.00 lakh and it has also not been disclosed that on the said date, she was accompanied with her son, namely, Shishir Chand. In fact, the disbursement order passed by the learned Tribunal on 21.04.2015 has not been annexed to this revision petition. However, the respondent no.1 has annexed the copy of the joint petition no.223/15 dated 21.04.2015 and a copy of the order dated 21.04.2015 alongwith her affidavit-in-opposition. On a perusal of the same, the petitioner and the respondent no.1 are found to have jointly signed the verification, and the said petition

contained a prayer to allow the claimants to withdraw the amount of compensation, without indicating the share of the parties. The said petition specifically contains averment in paragraph-1 that the insurer had deposited a sum of Rs.13,07,913 in the Tribunal.”

5.3 The High Court noted that order dated 21.04.2015 disclosed the payments made and the amount released to the claimants which include the minor grandchildren for whom the amount was directed to be deposited. It was noted that the amount accumulated as interest on the deposited amount was to be disbursed in favour of the claimants. A direction was issued for issuance of cheque in their savings bank account of the Central Bank of India which was identified by the Court with Account No. 325513828.

5.4 The High Court pointedly observed about the conduct of the appellant, in the same paragraph,

“Therefore, when the petitioner had signed the order sheet dated 21.04.2015 and when she has received a cheque for

Rs. 1.00 lakh, she is deemed to know of the contents of the said order. Thus, having accepted the order dated 21.04.2015 by which the award was apportioned, the plea that the petitioner was not aware of the proceedings or the contents of order dated 21.04.2015, falls through as unacceptable. The order dated 21.04.2015 cannot be said to be vitiated by fraud.”

6. Having gone through the facts and the order passed by the High Court, it has to be observed that the claimants approached the Tribunal for disbursement of the amount by filing a joint petition No. 223 of 2015 which was filed on 21.04.2015. The order was passed on the said joint application. The said joint application was admittedly signed by the appellant herein as well as daughter in law – respondent No. 1. It contained a prayer to allow the claimants to withdraw the amount awarded towards compensation. Nothing more was indicated much less the share of the respective parties.

6.1 The appellant received the cheque for Rs. 1,00,000/- which she encashed also. She has accepted

the cheque without any protest and demur. It was upon a joint application and with open eyes. Not only that appellant voluntarily received the said amount, but she also put her signature on the order sheet confirming the receipt of the amount. The High Court has rightly observed that she knew the contents of the order. It was only the subsequent change of mind on the delay of the appeal.

6.2 The appellant could not be permitted to resile from her own conduct. She cannot be accounted to approbate and reprobate. The question of occurrence of fraud against her does not arise in the facts of the case. She acted with open eyes, overtly and consciously. The appellant now cannot reopen or dispute the factums of her own act by showing disagreement to the disbursement raising all after-thought contentions.

6.3 Looking to the facts and the conduct of the appellant in jointly applying and thereafter accepting the compensation and encashing the cheque, no error could

be booked in the order passed by the Tribunal as well as by the High Court. The operative facts do not permit this Court to take any different view.

6.4 The High Court while agreeing with the findings of the Tribunal that there was no satisfactory explanation of delay in filing and the facts to justify the delay, also adverted the factual aspect on the merits regarding the conduct of the appellant as highlighted above. The High Court consequently rightly dismissed the review application.

7. The appeal fails and the same is dismissed.

..... J.
N.V. ANJARIA

..... J.
ATUL S. CHANDURKAR

NEW DELHI;
September 3, 2025