

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOs. 1821-1822 OF 2009
(Arising out of SLP (C) Nos.23035-23036 of 2005)

U.P.Jal Nigam, Lucknow

....

Appellant

Versus

Manju Goel & Ors.

....Respondents

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in these appeals is to the order passed by a Division Bench of the Uttranchal High Court dismissing the appeal filed by the appellant. Since the writ appeal was dismissed for non prosecution, an application for restoration was filed which was rejected by the impugned order.

3. It is to be noted that a Claim Petition was filed before the Motor Accident Claims Tribunal, Pauri Garhwal (in short the 'MACT') by respondents 1 to 5, claiming compensation in respect of an accident where one Shri Sudhakar Goel (hereinafter referred to as the 'deceased') lost his life on 19.3.1979. The claim made was Rs.11 lakhs. The MACT awarded Rs.9,18,288/- and the appellant was directed to pay the same. Against the Award an appeal was preferred before the Allahabad High Court which was numbered as Appeal No.335 of 1984 before the Allahabad High Court. After reorganization of State of Uttar Pradesh, State of Uttranchal was formed. The appeal in question was transferred to the Uttranchal High Court. Being unaware of this transfer none appeared when the Uttranchal High Court took up the matter. The appeal was dismissed. Coming to know of the dismissal, an application for restoration was filed, which was dismissed by the impugned order. The stand of the appellant is that it has no liability as the liability of Uttar Pradesh Jal Nigam in respect of the

territory within the Uttranchal State was transferred to the newly created Uttranchal Water Supply and Development Nigam and therefore the appellant has no liability to discharge the Award. In any event several important questions of law were involved. In the background it is submitted that the restoration application should have been allowed.

4. There is no appearance on behalf of the respondents in spite of service of notice.

5. While issuing notice this Court had indicated that the matter may be remitted for disposal on merits. However, direction was given to deposit a sum of Rs.5,00,000/- with the concerned MACT without prejudice to the claims involved. It is stated that the deposit has been made. In view of the factual position highlighted to justify the non-appearance when the matter was taken up by the High Court, we are of the view that the matters deserve to be heard on merit. We, therefore, set aside the impugned order, direct restoration of F.A.F.O. 335 of 1984 (old number) 981 of 2001 (new number) titled U.P. JAL Nivam v. Smt. Manju Goel and others.

6. Since the matter is pending since long, we request the High Court to dispose of the matter as early as practicable after giving notice to the parties concerned.

7. The appeals are disposed of accordingly.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
March 24, 2009