
(2001) 11 RAJ CK 0057
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3557 of 2001

Bhag Chand

APPELLANT

Vs

Ganpat and Others

RESPONDENT

Date of Decision : 19-11-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2002) 4 RLW 2175 : (2002) 4 WLC 460 : (2002) 5 WLN 485

Hon'ble Judges : N.N. Mathur, J

Bench : Single Bench

Advocate : Ravi Bhansali, for the Appellant;

Final Decision : Allowed

Judgement

Mathur, J.—The instant writ petition has been filed under Article 226 of the Constitution of India by the claimant in a motor accident claim case aggrieved of the order of the Motor Accident Claims Tribunal, Bhilwara dated 14.11.2000 rejecting the application u/s 140 of the Motor Vehicles Act for interim compensation.

2. In view of the short controversy involved, this court by order dated 18.9.2001 gave a short notice for final disposal. In spite of service of notice, none has appeared for the respondents. The case is taken up for final disposal.

3. On 6.10.1996, petitioner met with an accident on account of which he sustained various injuries. He filed a claim petition before the Tribunal for a sum of Rs. 1,90,000/-. He also filed application u/s 140 of the Motor Vehicles Act for interim compensation. The driver and owner of the vehicle disputed the fact as averred in the writ petition. The Insurance Company contested the interim application on the ground that on the date of accident, respondent Ganpat was not holding valid driving licence. The Tribunal found that the accident took place on 6.10.96, whereas the driving licence (Learning) was of 30.10.96. In view of this, the Insurance Company was not liable to pay the interim compensation. The

learned Judge by order dt. 13.2.2000 rejected the application u/s 140 of the Motor Vehicles Act.

4. Having heard Mr. Ravi Bhansali, learned counsel for the petitioner, I am satisfied that the impugned order rejecting the application u/s 140 of the M.V. Act is not sustainable. Section 140 of the M.V. Act is benevolent provision for giving speedy remedy to the claimant. This provision has been brought on the Statute, though as a measure of social justice in order to meet to some extent the responsibility of the society to the deaths and injuries caused in road accidents, the liability to pay compensation on the principle of "no fault liability" has come to be provided statutorily u/s 140 of the Act. The concept of no fault liability shows that the Tribunal is expected to hold summary enquiry for awarding interim compensation. It is of course true that even for the interim compensation, the liability of the Insurance Company is subject to the conditions of the insurance policy. The Legislature has not made an insurance company liable for "no fault liability" irrespective of its contract with the owner. However, in case where the Insurance Company is not liable to pay the interim compensation, the Tribunal is required to consider if it is to be paid by the owner or the driver. In the instant case, as the driver of the vehicle was not holding a licence on the date of accident, the Insurance Company was not liable to pay the interim compensation. In such circumstances, the Tribunal instead of rejecting the application u/s 140 of the Act, ought to have proceeded to consider the case for award of interim compensation by the owner or the driver. The Tribunal has committed illegality in rejecting the application of the petitioner u/s 140 of the M.V. Act.

5. Consequently, the writ petition is allowed. The order of the Motor Accident Claims Tribunal, Bhilwara dated 14.11.2000 is quashed and set aside, so far as it relates to non-consideration of the award of interim compensation as against the owner of the vehicle. The Tribunal is directed to decide the application filed by the petitioner u/s 140 of the M.V. Act on its merit. No order as to costs.