

(2002) 02 JH CK 0030
In the Jharkhand High Court

General Manager, Bhaat Coking Coal Limited

APPELLANT

Vs

Smt. Suma Devi and Another

RESPONDENT

Date of Decision : 14-02-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166

Citation : (2002) 3 ACC 606

Hon'ble Judges : Hari Shankar Prasad, J

Bench : Single Bench

Judgement

Gurusharan Sharma, J.—Title (MV) Suit No. 2 of 1998, u/s 166 of the Motor Vehicles Act, 1988 (hereinafter to be referred to as "the Act") was filed jointly by mother and wife of deceased Gupu Modak for granting compensation. The deceased had lost his life in a motor accident on 2.3.1995.

2. It was asserted that while going on a bicycle from Madhuban to Mali godown, Gupu Modak was dashed by a water tanker (dumper) No. 106 and as a result of which he sustained injuries and died.

3. A separate application u/s 140 of the Act was also filed in the said case.

4. The claimants failed to pay requisite Court-fee for the claim application filed u/s 166 of the Act. They expressed their inability to pay Court-fee on account of poverty. Hence, their application u/s 166 of the Act was dismissed on 4.2.1998.

5. However, Tribunal entertained their application u/s 140 of the Act and by impugned order dated 7.3.1998, in absence of any denial by the order, passed interim award of Rs. 50,000/- payable to the claimants u/s 140 of the Act.

6. Main contention in this appeal is that the vehicle in question was not a motor vehicle within the meaning of the Act and, therefore, neither any claim case u/s 166 nor any application for interim award u/s 140 of the Act was maintainable.

7. Without expressing any opinion on the merit of aforesaid submission, we think that an opportunity of hearing ought to have been given to the owner of the

vehicle in question before the Tribunal.

8. We, therefore, set aside the impugned order and interim award and remit the matter to the Tribunal to hear the parties and pass appropriate orders in accordance with law.

9. This appeal is disposed of accordingly.