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**(1996) 11 MP CK 0027**  
**In the Madhya Pradesh High Court**  
**Case No : M.A. No. 856 of 1996**

Hanuman Milling Industries

APPELLANT

Vs

Ratan Lal alias Rattu

RESPONDENT

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**Date of Decision :** 27-11-1996

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 173

Workmens Compensation Act, 1923 — Section 30

**Citation :** (1998) ACJ 482 : (1997) 75 FLR 461 : (1997) 1 JLJ 280 : (1998) 3 LLJ 158 : (1998) 1 MPJR 289 : (1997) 2 MPLJ 541

**Hon'ble Judges :** Sreesh Chandra Pandey, J

**Bench :** Single Bench

**Advocate :** Masood Ali, for the Appellant; S.K. Kathar, for the Respondent

**Final Decision :** Allowed

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## Judgement

S.C. Pandey, J.

This appeal is directed against the order, dated August 10, 1994, passed by the Commissioner for Workmen's Compensation (Labour Court) Sagar, in Workmen's Compensation Case No. 3/93.

The respondent Ratan Lal alias Rattu had filed an application for compensation under the Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act" for short). He claimed in this application that he suffered an injury to his left arm on May 22, 1987 while he was working on a Expeller Machine. The result was that due to accident there was an amputation of his arm. This application was filed on October 8, 1987.

It appears that the respondent filed an application, dated November 29, 1990, claiming that he was entitled to interim compensation amounting to Rs. 25,000/- The applicant filed a reply opposing the grant of interim compensation on the ground that under "the Act" and the Rules made thereunder, there is no provision for making an interim compensation. For this reason, the Commissioner

for Workmen's Compensation had no jurisdiction to grant an interim compensation on the application filed by the respondent on November 29, 1990.

By the impugned order, the Commissioner for Workmen's Compensation (Labour Court) Sagar has granted award to the extent of Rs. 12,000/-

It appears that initially the appellant had preferred a revision against the order. By the order, dated July 22, 1996, it was pointed out to the learned counsel for the appellant that the Commissioner for Workmen's Compensation had passed an order u/s 140 of the Motor Vehicles Act, 1988 read with Section 143 thereof. In view of the Full Bench decision reported in *Oriental Insurance Co. Ltd. v. Chaithan and Ors.* 1995 MPLJ 259, the revision did not lie and therefore, on oral prayer of counsel for the applicant, the revision was converted into a Misc. Appeal.

After the revision was converted into a Misc. Appeal, on September 27, 1996 this appeal was admitted and it was directed that this appeal should be treated as an appeal u/s 30 of "the Act".

The learned counsel for the respondent raised a preliminary objection to the effect that the appellant has not complied with the provisions of Section 30 of "the Act". Moreover, the revision itself was filed beyond 60 days and, therefore, the appeal was barred by time.

The learned counsel for the appellant, on the other hand, urged that even though the appeal has been admitted on the basis that the impugned order is appealable u/s 30 of "the Act", the order is appealable under the Motor Vehicles Act as was held by this Court in the order-sheet, dated July 22, 1996, relying on the Full Bench decision reported in 1995 MPLJ 259 (*supra*).

In the opinion of this Court, the learned counsel for the respondent is entitled to raise the objection and, therefore, it is necessary to determine whether the impugned order is appealable u/s 30 of "the Act". If it is held that the appeal lies u/s 30 of "the Act" then only the question of deciding the preliminary objection would arise.

It is clear from the impugned order that it has been passed u/s 140 of the Motor Vehicles Act, 1988 read with Section 143 thereof. Therefore, the appeal shall lie under the Motor Vehicles Act against the interim award as per decision reported in 1995 MPLJ 259 (*supra*). It is the considered opinion of this Court that the forum has to be determined on the basis of order which is made expressly by the Commissioner for Workmen's Compensation. This proposition of law is well established in *Govardhan Badrilal Mahajan and Ors. v. Ganesh Balkrishna Deshmukh* 1962 MPLJ 325, wherein it was laid down that in case a Court purports to act under any specific provision of law, the decision has to be judged with reference to that provision and the forum which examines the correctness of that decision has also to be determined with reference to that provision. It was also stated in that case that what a Court actually does which determines the

forum and gives jurisdiction to the appellate or revisional Court and not what it ought to have done. This decision was referred to by me with approval in an unreported decision given in the case of Mohd. Yusuf and Ors. v. Smt. Jyotsna Ben and Ors. MA No. 228/ 1990. In view of the aforesaid, there is no merit in the contention of the learned counsel for the respondent that appeal does not lie under the provisions of Motor Vehicles Act. An Appeal lies u/s 173 of the Motor Vehicles Act, 1988 and not u/s 30 of the "the Act" because the interim award passed by the Commissioner for Workmen's Compensation is of the nature of an award under the Motor Vehicles Act, as was held by the Full Bench decision of 1995 MPLJ 259 (supra).

The next question that has to be decided by this Court is if the interim award can be passed by the Commissioner for Workmen's Compensation apart from the provisions of the Motor Vehicles Act. It is not disputed by the counsel for the parties that in this particular case no accident by a motor vehicle was involved. Therefore, the Commissioner for Workmen's Compensation could not have applied the provisions of Motor Vehicles Act to the facts of the case. Still the question would be if there is any provision under "the Act" to grant interim compensation. The contention of the learned counsel for the appellant is that there is no such provision in "the Act". The respondent can only get compensation after the matter is finally decided by the Commissioner for Workmen's Compensation under "the Act". In view of Section 23 of "the Act", the Commissioner for Workmen's Compensation shall be deemed to be a Civil Court under the CPC for a limited purpose (i) of the taking evidence on oath; (ii) of enforcing the attendance of witnesses and compelling the production of documents and material objects, and (iii) for the purposes of Section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898. It is therefore, claimed that even though the jurisdiction of the Civil Court is barred so far as the matter which comes within the jurisdiction of "the Act", the Commissioner for Workmen's Compensation has not been conferred with all the powers of a Civil Court. Section 151 of C.P.C. has not been made applicable to the Commissioner for Workmen's Compensation. It appears to this Court that the Commissioner for Workmen's Compensation is a Tribunal and not a Court and it is a Tribunal of limited jurisdiction. Therefore, in absence of express power under "the Act", the Commissioner for Workmen's Compensation cannot grant any amount to the respondent by way of interim award. In this particular case, the Commissioner for Workmen's Compensation was aware that he had no power whatsoever under "the Act" to grant an interim compensation. Therefore, even though the case did not involve an accident by a motor vehicle as defined u/s 2(28) of the Motor Vehicles Act, 1988, the Commissioner for Workmen's Compensation has utilised the provisions of Motor Vehicles Act for granting an interim compensation in absence of any power under the Act for doing so. The learned Commissioner for Workmen's Compensation could not have granted an interim award. It is, therefore, directed that the Commissioner for Workmen's Compensation shall expedite the hearing of the case pending before it.

For the aforesaid reason's, the order, dated August 10, 1994, passed by the Commissioner for Workmen's Compensation (Labour Court), Sagar is set aside and this appeal is allowed. However, there shall be no order as to costs.