

(2001) 03 JH CK 0046
In the Jharkhand High Court
Case No : M.A. No. 302 of 1999 (R)

Jay Bharat Construction Company

APPELLANT

Vs

Kamla Devi and Others

RESPONDENT

Date of Decision : 15-03-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166

Citation : (2002) 0 ACJ 1610 : (2001) 2 ACC 584 : (2001) 49 BLJR 1990

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : R.S. Mazumdar, for the Appellant; Mohd. Mokhtar Ahmad, J.
Mazumdar and G.C. Jha, for the Respondent

Final Decision : Dismissed

Judgement

Gurusharan Sharma, J.—Heard. This appeal has been filed by owner of Commander Jeep (BR-18-7879), which was involved in accident dated 1.1.1997, wherein one Rajesh Kumar Prasad died. His widow filed MJC No. 59 of 1997 for compensation under the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). During pendency of the said case, an interlocutory application u/s 140 of the said Act was filed by her for interim compensation, which has been allowed by impugned order dated 8.10.1999, whereby owner of the vehicle has been directed to make payment of interim compensation amounting to Rs. 50,000/- to the claimant. Appellant's grievance is that the aforesaid Commander Jeep was duly insured with National Insurance Co. Ltd. and as such the Insurer was responsible to indemnify the owner's liability to pay amount of interim award. It appears that on the objection raised by the Insurer, photo copy of driving licence of driver of Commander Jeep was produced. The said licence was valid for the period from 6.5.1993 to 5.5.1996. It was renewed till 12.6.1999. The Insurer claimed that endorsement of renewal till 12.6.1999 in the licence was forged one, on the basis of Surveyor's report and certificate of Transport Officer, Lohardaga that there was no renewal of the driving licence in question after

5.5.1996. It goes without saying that observation/finding given in the impugned order at the stage of Section 140 of the Act is neither final nor can be used to the prejudice of parties as the final hearing of main claim case u/s 166 of the Act. Further in case owner of the vehicle succeeds to prove a valid driving licence at the time of accident, at the final hearing of the main claim case u/s 166 of the Act, on the basis of evidence brought on record, he will be entitled to get the amount of interim award paid to the claimant from the total amount of compensation determined to be paid by the Insurer to the claimant.

2. In the aforesaid circumstance, I do not find any reason to interfere with the impugned order and interim award at this stage. This appeal is dismissed.

3. Statutory amount of Rs. 25,000/-deposited by appellant in this, appeal vide challan No. J-8 dated 28.4.2000 is permitted to be withdrawn by claimant-respondent No. 1 on proper verification and in accordance with law.

4. Appeal dismissed.