
(2002) 02 MP CK 0095

In the Madhya Pradesh High Court

Case No : Civil Revision No. 74 of 1999

Kadivan and Others

APPELLANT

Vs

United India Insurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 19-02-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 141, 166

Citation : (2003) ACJ 1439 : (2002) 2 MPLJ 358

Hon'ble Judges : Chandresh Bhushan, J

Bench : Single Bench

Advocate : N.D. Singhal, for the Appellant;

Final Decision : Dismissed

Judgement

Chandresh Bhushan, J.

Aggrieved by an order dated 28.11.1998 of the Second Addl. Motor Accidents Claims Tribunal, Gwalior, refusing their prayer regarding payment of the full sum finally awarded to them on the basis of the principle of fault, over and above and independent of the sum awarded on the principle of no fault liability, this revision petition has been preferred by the claimants.

The facts in brief are that one Kayam Hussain died in a road accident involving a motor vehicle. Thereafter the petitioners, who were the legal representatives of the deceased, filed an application before the Motor Accidents Claims Tribunal u/s 166 of the Motor Vehicles Act, for compensation. During the pendency of their application a sum of Rs. 50,000 was granted to them u/s 140 of the Motor Vehicles Act on the principle of no fault liability. That amount was duly paid. Thereafter a final award was passed by the learned Tribunal in favour of petitioners/ applicants for a sum of Rs. 2,86,180 with interest at the rate of 12 per cent per annum from the date of application till the date of payment. An amount of Rs. 2,93,903 was accordingly deposited by the respondent insurance company after deducting the amount of Rs. 50,000 awarded and already paid u/s

140 of the Motor Vehicles Act. Thereafter the petitioners filed an application before the Second Addl. Motor Accidents Claims Tribunal for direction to the non-applicant insurance company to pay Rs. 50,000 more together with interest thereon, in all amounting to Rs. 92,695.70. The petitioners claimed that the final award was independent of the amount of the interim award on the basis of no fault liability and that when there was no mention in the final award about reduction of the amount of the said interim award from the final award then the learned Tribunal should have ordered for payment of the sum under the final award independent of the amount of interim award. Disagreeing with the contentions of the petitioners the learned Tribunal passed the impugned order.

The contentions of the petitioners before this court were the same as those put forward before the Tribunal and on the basis of those contentions it was further contended by the learned Counsel for the petitioners that the impugned order of the learned Tribunal was bad in law.

But, the learned Counsel for the petitioners failed to show any law in support of his said contentions.

Sub-clause (3) of Section 141 of the Motor Vehicles Act provides that whenever in respect of death of any person, anyone is found liable to pay compensation in accordance with other's right on the principle of fault and he was also liable to pay compensation u/s 140 of the Motor Vehicles Act, if the compensation awarded under the principle of fault was more than the amount awarded u/s 140 of the Motor Vehicles Act, i.e., on the principle of no fault then, only so much of the amount awarded on the principle of fault was payable as much was in excess of the amount of compensation awarded on the principle of no fault. It does lead to the inference that in the absence of any specific direction in the final award the amount of compensation awarded under no fault liability had to be deducted from the total amount awarded on the principle of fault. Hence, the impugned order was very much in accordance with the law and called for no interference. Therefore, this revision petition is dismissed in limine.