

(2009) 10 P&H CK 0040
In the Punjab And Haryana At Chandigarh
Case No : F.A.F.O. No. 4795 of 2009 (O and M)

Krishan Kumar

APPELLANT

Vs

Karam Singh and others

RESPONDENT

Date of Decision : 27-10-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2011) ACJ 964 : (2010) 1 RCR(Civil) 670

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—The present appeal has been filed by the driver of the offending vehicle. Along with this appeal, an application has been filed for granting exemption to the appellant from depositing of Rs. 25,000 as envisaged u/s 173 of the Motor Vehicles Act, 1988. The sole ground taken in this application for exemption is that the insurance company has already deposited the whole amount of compensation as awarded by the Tribunal and, therefore, there is no need to deposit the amount of Rs. 25,000 while filing this appeal. I am afraid, the ground raised by the learned counsel for the appellant is against the express provisions of law.

2. It is well settled that right to appeal is a statutory right and the same can be availed only in accordance with the provisions of law.

3. Section 173 of the Motor Vehicles Act, 1988 reads as follows:

Appeals.-(1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has

deposited with it twenty-five thousand rupees or fifty per cent of the amount so awarded, whichever is less, in the manner directed by the High Court:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees.

4. Since u/s 173 of the Motor Vehicles Act, it is prerequisite to deposit the amount of Rs. 25,000 or 50 per cent of the amount awarded whichever is less, before filing the appeal on behalf of the driver/owner/insurer and the said amount having not been deposited, the application u/s 173 of Motor Vehicles Act, 1988 is liable to be rejected.

Ordered accordingly.

Since the appellant has failed to deposit the amount as envisaged under law, thus, there is no properly constituted appeal before me. Hence, the present appeal is also dismissed.