
(2001) 08 MP CK 0002
In the Madhya Pradesh High Court
Case No : M.A. No. 4 of 1999

Laxman Singh

APPELLANT

Vs

Parmanand Damani and Others

RESPONDENT

Date of Decision : 18-08-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 169

Citation : (2003) ACJ 1214

Hon'ble Judges : A.K. Gohil, J

Bench : Single Bench

Advocate : C.L. Yadav, for the Appellant; V.K. Jain, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Gohil, J.—The appellant, owner of the vehicle, has filed this misc. appeal under Order 43, Rule 1 of the CPC (for short "the Code") against the order dated 7.12.1998 passed by Third M.A.C.T., Mandsaur in Claim Case No. 24 of 1998 whereby allowed the application of respondents-claimants filed under Order 38, Rule 5 of the Code.

2. The short submission of Mr. Yadav, the learned Counsel for the appellant is that the Tribunal has no power to order for the attachment of the property on the principle under Order 38, Rule 5 of the Code as u/s 169 of the Motor Vehicles Act, read with Rule 240 of the Motor Vehicles Rules, the provisions of Order 38, Rule 5 of the Code are not applicable to the claim cases and more so the circumstances for passing an order under Order 38, Rule 5 of the Code also do not exist in this case.

3. In reply, Mr. Jain, learned Counsel for respondents cited a decision in the case of Mansingh Sajjusingh v. Sudhir Ganpatrao Girdhari 1986 ACT 828 (Bombay), in which it has been held that Rule 310 of the Bombay Rules impliedly empowers the Tribunal to act on the provisions of Order 38, Rule 5, Civil Procedure Code. But that Rule 310 under the Bombay Motor Vehicles Rules, 1959 is not applicable

in the State of Madhya Pradesh. Therefore, the aforesaid citation is not applicable to this case.

4. It is not in dispute before me that in this case the Tribunal passed an interim award of Rs. 50,000 on 3.7.1998 and despite the order, appellant has not deposited the aforesaid amount before the Tribunal. Therefore, claimants have filed an application under Order 38, Rule 5 of the Code for attachment of the property and on this application after hearing the parties, the Tribunal has directed for the attachment of the property as well as for producing a security for a sum of Rs. 3,00,000 which is under challenge before me.

5. From the perusal of the impugned award, it is clear that in respect of the aforesaid application the present appellant Laxmansingh had submitted before the Tribunal that he is willing to deposit the awarded amount and he is not disposing of his movable and immovable property including vehicle. It is true that u/s 169 of the Act read with Rule 240 of the Rules, the provisions of Order 38, Rule 5 of the Code has not been made applicable but the provisions of Order 21 has been made applicable to the proceedings. If the amount of interim award is not deposited by the owner of the vehicle or the insurance company, the same can be recovered by the Tribunal and for that Tribunal may exercise powers under Order 21 of the Code for the execution of the award as the same has been made specifically applicable.

6. Now it is also settled law that the Motor Accidents Claims Tribunal are civil courts and also having all trappings of civil court. The Tribunals are also vested with the powers to deal with the "motor accident" arising out of the use of the motor vehicles. For the purposes of recovery of the amount of interim award Tribunals under inherent powers can pass an appropriate order for depositing the same or alternatively to protect the interest of the claimants by passing an appropriate order. In this case the Tribunal was justified in passing of order that if the applicant shall not deposit the amount, the vehicle shall be liable to be attached and the applicant shall also be liable to furnish the security to the extent as indicated in the award. However, as it was undertaken by the appellant that he is willing to deposit the amount and he will not dispose of the vehicle, the Tribunal ought to have granted reasonable time to the appellant to deposit the amount and to file undertaking. Accordingly a month's time is allowed to the appellant to file the same otherwise, the impugned order of the Tribunal shall be treated as final.

7. For the reasons stated above, I do not find any merit in this appeal and the same is dismissed with the aforesaid directions with no order as to costs. Record be returned.