
(2002) 07 JH CK 0020
In the Jharkhand High Court
Case No : M.A. No. 191 of 2001

Manager, The Oriental Insurance Co. Ltd.	APPELLANT
Vs	
Basmatia Devi and Others	RESPONDENT

Date of Decision : 11-07-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 173

Citation : (2003) ACJ 2017

Hon'ble Judges : Vinod Kumar Gupta, C.J.;Tapen Sen, J

Bench : Division Bench

Judgement

1. Reference is invited to a Division Bench Judgment dated 30th January, 2002 passed in M.A. No. 57/2001. It is submitted that even though the vehicle in question did not carry with it any valid insurance as on the date of accident, the appellant has paid the amount u/s 140 of the M.V. Act.
2. Based on the relevant observations made in the aforesaid Division Bench judgment dated 30th January, 2002 in M.A. No. 57/2001, while dismissing this appeal, we permit the appellant to raise all pleas before the Tribunal which are available to it relating to the validity or existence of insurance policy with respect to the vehicle in question.
3. Shri G.C. Jha, learned counsel appearing for the appellant prays that the statutory amount of Rs. 25,000/- as deposited by the appellant in this Court in terms of the provision in Section 173 of the M.V. Act, 1988 be returned to the appellant because the appellant has already paid to the claimant the awarded amount of Rs. 50,000/-as per the award passed u/s 140 of the M.V. Act,
4. We are indeed surprised at the submission made by Shri Jha. We are saving so because what we find is that there was actually no requirement in law to deposit any statutory amount in this Court at the time of filing of this appeal if indeed before the filing of the appeal the appellant had paid the awarded amount to the claimants or deposited the same before the Tribunal.

5. Section 173 of the M.V. Act reads thus :

""173. 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 percent 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 case 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."

6. The first proviso to Sub-section (1) of Section 173 undoubtedly stipulates that no appeal under Sub-section (1) of Section 173 would be entertained by the High Court unless the appellant "who is required to pay any amount in terms of such award" has deposited with the High Court Rs. 25,000/-or fifty percent of the awarded amount, whichever is less. The expression "who is required to pay any amount in terms of such award" as appearing in the first proviso (supra) clearly stipulates that an appellant who has in fact paid the awarded amount before filing the appeal would not come in the definition or category of the aforesaid expression because such an appellant would not be required to pay any amount in the High Court as he has already paid the amount in satisfaction of the award before filing the appeal. If, therefore, an appellant who before filing the appeal has actually paid the awarded amount in law there is no question or need of paying any other/additional amount in terms of the first proviso (supra) and with respect to such a person, the appeal would be maintainable without the pre-requisite of any such pre-deposit and the appeal accordingly should be entertained without any pre-condition of the deposit of Rs. 25,000/-or half of the awarded amount or for the matter any other amount. This, of course is subject to the stipulation and a clear and specific condition that along with the Memo of Appeal such an appellant attaches/ produces unimpeachable evidence/proof to the effect that the amount as awarded has been paid by the appellant to the claimant-respondent or the same has been deposited before the Claims Tribunal. The exemption as aforementioned can thus be applied to such an appellant only if it satisfies the Registry of the Court that the amount in question has already been paid or the same has been deposited in the Tribunal.

7. The Registry shall make note of the aforesaid observations/directions for future.

8. Based on the aforesaid observations and directions, if the appellant in the present case satisfies the Joint Registrar (Judl.) that it has already paid the

awarded amount to the claimant, the Joint Registrar (Judl.) shall return the deposited amount to the appellant.

9. The appeal is disposed of. No order as to costs.