
(2001) 05 AHC CK 0184
In the Allahabad High Court
Case No : Writ Petition No. 1677 of 2000

Nand Lal Singh Yadav

APPELLANT

Vs

Smt. Vimla Devi and others

RESPONDENT

Date of Decision : 09-05-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 13
Motor Vehicles Act, 1988 — Section 140

Citation : (2001) 2 AnWR 46 : (2001) 3 AWC 1952

Hon'ble Judges : U.K. Dhaon, J

Bench : Single Bench

Advocate : S.K. Mehrotra and I.D. Shukla, for the Appellant; C.S.C. and Harish Chandra, for the Respondent

Final Decision : Dismissed

Judgement

U.K. Dhaon, J.—Heard learned counsel for the petitioner and Sri Harish Chandra appearing on behalf of opposite party Nos. 1 to 4.

2. The petitioner has approached this Court against the order dated 26.5.2000 by which the application under Order IX, Rule 13. C.P.C. was allowed by the Claims Tribunal subject to the condition that the petitioner deposits Rs. 50,000. Sri S. K. Mehrotra, learned counsel for the petitioner submits that the Claims Tribunal exceeded its jurisdiction in directing the petitioner to deposit Rs. 50,000 during the pendency of the claim petition although at the time of accident the maximum amount u/s 140 of the Motor Vehicles Act. 1988 was only Rs. 25,000. He further submits that as the vehicle was insured, the liability is of the Insurance Company. He has also relied upon the order dated 4.8.1997 passed by this Court in Writ Petition No. 1503 (MSI of 1992).

3. Sri Harish Chandra, learned counsel for the opposite parties submits that the Claims Tribunal passed the award dated 30.7.1999 after considering the written statement filed by the petitioner. He further submits that in pursuance of the interim order passed by this Court, the entire proceedings of the Claim Case No.

11 of 2000 pending in the Claims Tribunal are standstill. He further submits that there is no illegality in the order passed by the Claims Tribunal as when the order was passed on 26.5.2000, the amended Act was in operation.

4. I have considered the arguments of the learned counsel for the parties and gone through the impugned order.

5. A perusal of the order dated 26.5.2000 reveals that the application under Order IX, Rule 13 was allowed subject to the payment of Rs. 50,000 as costs. The order further reveals that if the Court comes to a conclusion that the liability is of the Insurance Company, the petitioner has all right to recover the amount from the Insurance Company. There is no dispute that the Claims Petition was filed in the Tribunal in the year 1991 and more than 10 years have elapsed and the legal heirs of the deceased are facing great hardship as they have claimed that they are legally entitled for the compensation either by the Insurance Company or by the owner of the vehicle. There is no dispute also that the written statement was filed by the petitioner and thereafter the alleged ex parte award was passed by the Claims Tribunal on 30.7.1999. The amount of Rs. 50,000 was incorporated in Section 140 of the Motor Vehicles Act by Act No. 54 of 1994 which was applicable with effect from 14.11.1994. Admittedly in the year 1994, the Claim Petition was pending and there is no provision u/s 140 of the Motor Vehicles Act that if an accident has taken place prior to 1994 the benefit of Section 140 will not be given to the legal heirs of the deceased. A perusal of Section 140 of the Motor Vehicles Act, 1988 would show that there is nothing to indicate that the section will apply to an accident taking place only after its introduction. In the absence of any expression therein to indicate that the Section will apply to an accident taking place only after its introduction, the provision of Section 140 has to be applied in respect of matters pending before the Tribunals or the Courts of appeals. The provision of minimum amount of compensation is a piece of welfare legislation and is intended to offer prompt financial relief to the victim or the legal representative of the victim of the accident. In order that this object is not frustrated, the Tribunal or the Court is, required to act promptly and spurn any attempt at procrastination. The District Judge while awarding Rs. 50,000 has also observed that if there is liability of the Insurance Company, the petitioner will have all right to recover the amount from the Insurance Company. Although the proceedings of the Claim Petition was not stayed by this Court by the order dated 17.7.2000 but till date, the claim petition has not been disposed of by the Claims Tribunal, Faizabad. In the instant case, the Claims Tribunal has set aside the ex parte decree subject to payment of Rs. 50,000 which is the maximum amount u/s 140 of the Motor Vehicles Act.

6. The writ petition is devoid of merits. It is accordingly dismissed. The Claims Tribunal is hereby directed to decide the Claim Petition No. 68 of 1991 within three months from the date a certified copy of this order is produced. It will also ensure that the payment of Rs. 50,000 is made to the legal heirs of the deceased forthwith.