

(2006) 09 MP CK 0062
In the Madhya Pradesh High Court

Narendra

APPELLANT

Vs

B.C.M. Higher Secondary School and Others

RESPONDENT

Date of Decision : 07-09-2006

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2007) 2 ACC 258 : (2008) ACJ 1421

Hon'ble Judges : S.K. Seth, J

Bench : Single Bench

Judgement

S.K. Seth, J.—Heard.

2. According to learned Senior Counsel, Section 173 of the Motor Vehicles Act, 1988 gives a right of appeal to any person who is aggrieved by an award passed by the Claims Tribunal. Sub-section (2) thereof is in the nature of an exception or proviso to restrict the said right of appeal, if the amount in dispute in appeal is less than Rs. 10,000. According to learned Counsel, the amount in dispute in appeal obviously refers to the amount which is under challenge in appeal. To elaborate this, learned Senior Counsel gave an example. According to him if a claimant prefers claim petition claiming Rs. 10,000 as the total amount of compensation and the Claims Tribunal awards only Rs. 5,000 as compensation, in such a case the amount in dispute in appeal would be the remaining amount of Rs. 5,000 so far as claimant is concerned and the amount of Rs. 5,000 awarded, so far as owner and insurer are concerned because the owner and insurer are trying to get rid of Rs. 5,000 which is awarded against them and in case of claimant, he is claiming the remaining amount of Rs. 5,000. Thus, in either case, the amount in dispute in appeal is Rs. 5,000 and in such a situation no appeal would be maintainable in view of the provisions of Sub-section (2) of Section 173 of the Motor Vehicles Act. He also gave another example to illustrate the point. According to him if a claimant claims Rs. 1,00,000 and the Tribunal awarded only Rs. 5,000 as compensation. In claimant's appeal for enhancement, the enhanced amount would be the amount in dispute in appeal and if it is more than Rs.

10,000 then appeal would be maintainable. But in case of owner or insurer, the appeal would not be maintainable because the amount in dispute in appeal is only Rs. 5,000 which they want to get rid off. Learned Counsel also drew attention to Division Bench decision of the Delhi High Court reported in 1970 ACJ 424. Thus, it is clear that the value put forth in appeal is the amount in dispute in appeal and in each case it has to be ascertained while considering the question of maintainability of the appeal in view of this legal position, the present appeal is maintainable and cannot be dismissed at the threshold under Sub-section (2) of Section 173 of the Motor Vehicles Act. Before parting with this order, I must record my appreciation for the valuable assistance rendered by learned amicus curiae to clarify the legal position in their immaculate style.

3. Mr. Kushwah is heard on the question of admission.

4. Record perused.

5. Appeal is admitted for final hearing.

6. On payment of PF within 7 days, let notice after admission be issued to the respondents except the Insurance Company by ordinary mode as Mr. Purohit has already put in his appearance for the Insurance Company. Learned Counsel for the appellant shall supply memo of appeal to Mr. Purohit within 7 days.