

(2006) 09 GAU CK 0076
In the Gauhati High Court

National Insurance Company Ltd.

APPELLANT

Vs

Chandrakala Devi

RESPONDENT

Date of Decision : 25-09-2006

Acts Referred:

Citation : (2006) 09 GAU CK 0076

Hon'ble Judges : T.Nanda Kumar Singh, J

Bench : Single Bench

Advocate : N.Kotishwar Singh, Advocates appearing for Parties

Judgement

1.Heard Mr.N.Kotishwar, learned counsel for the petitioner. None appears for the respondents without showing any cause.

[2] This Revision Petition is directed against the interim order dated 16.3.1999 in M.A.C Case No.90 of 1998 passed by the Presiding Officer, Motor Accident Claims Tribunal, Manipur directing the present petitioner and respondent no.5, i.e. United India Insurance Company Ltd to pay a sum of Rs.25, 000/ (Rupees twenty five thousand) to the claimant/respondent no.1, Km.Chandrakala Devi represented by respondent No.2. Smt Muna Devi.

[3] The present petitioner i.e. National Insurance Company Limited is the insurer of Tata Bus bearing Registration No.MNZ 2838 and respondent no.5, United India Insurance Company Ltd is the insurer of Tata Truck bearing regn No.ASZ 6188. It is said that there was a vehicular accident of Tata Bus bearing regn No.MNZ 2838 and Tata Truck bearing Regn No.ASZ 6188 on 09.04.1997. It is said that as a result of the said vehicular accident, the claimant No.1, Km.Chandrakala Devi who was traveling as passenger of the insured vehicle Tata Bus bearing regn No.2838 alleged to have been suffered from permanent disablement.

[4] The claimant i.e. Km Chandrakala Devi represented by respondent no.2, Smt Muna Devi, filed a claim case being MAC Case No.90 of 1998 before the learned Claims Tribunal against the present petitioner and respondent nos.3, 4 and 5. It is said that the claimant filed the said claim case under Section 166 read with

Section 140 of the MV Act. In the said MAC Case No.90 of 1990 the learned Tribunal passed an interim award in exercise of its power under Section 140 of the MV Act directing the present appellant and respondent no.4, the United India Insurance Co Ltd to pay a sum of Rs.25,000/ (Rupees twenty five thousand) to the claimant no.1, i.e. Km Chandrakala Devi through the claimant No.2, Smt Muna Devi.

[5] The present revision petition is against the interim order dated 16.3.1999 passed in MAC Case No.90 of 1998 only on the main thrust that for passing the interim award under Section 140 of the MV Act for permanent disablement, claimant has to satisfy the learned Claims Tribunal that the claimant has suffered from permanent disablement so as to claim the interim award for Rs.25,000/ (Rupees twenty five thousand) under Section 140 of the MV Act.

[6] In the present case, the only case of the petitioner is that there was absolutely no material on record to show that the claimant has suffered from permanent disablement so as to enable the learned Claims Tribunal to pass the interim award of Rs.25,000/ (Rupees twenty five thousand) under Section 140 of the MV Act. From perusal of the record it appears that submission of learned counsel appearing for the petitioner has the force of law inasmuch as there was no material on record i.e. medical certificate to show that the claimant suffers from permanent disablement. From record, it appears that the Doctor who issued the Medical certificate that the claimant suffers from disablement had not been examined by the Claims Tribunal.

[7] The learned counsel for the appellant, further submits that the Medical Certificate produced by the claimant in the Claim Case No.90 of 1998 does not shows that the claimant has suffered from permanent disablement.

[8] However, learned counsel for the petitioner submits that the learned Claims Tribunal is continuing the inquiry contemplated under Section 168 of the MV Act in the said Claim Case No.90 of 1998 so as to made final award for the payment of compensation. Such being the situation, this court is of the considered view that the petitioner may point out before the learned Claims Tribunal that the claimant has not suffered from permanent disablement.

[9] It is made clear that the interim award of Rs.25,000/ under the impugned interim award dated 16.3.1996 in MAC Case No.90 of 1998 shall be adjusted against the final award to be prepared by the Claims Tribunal in MAC Case No.90 of 1998 after completing the inquiry contemplated in Section 168 of the MV Act. Further, it is made clear that as an interim measure an amount of Rs.15, 000/ (Rupees fifteen thousand) may be released to the claimant Km.Chandrakala Devi through respondent no.2, Smt.Muna Devi. The said amount of Rs.15,000/ (Rupees fifteen thousand) shall be paid jointly by the appellant, i.e. National Insurance Corporation Ltd, and respondent no.5, the United India Insurance Co Ltd to the extent of 50:50, i.e. 7,500/ (Rupees seven thousand five hundred). The respondent no.5, the United India Insurance Co Ltd shall deposit a sum of

Rs.7, 500 (Rupees seven thousand five hundred) only before the Claims Tribunal.

Registry shall release a sum of Rs.7,500/ (Rupees seven thousand five hundred) only to the claimant, Km Chandrakala Devi through Smt Muna Devi on being identified by their counsel out of the amount of Rs.25,000/ (Rupees twenty five thousand) deposited by the petitioner, i.e. National Insurance Co Ltd in the Registry of this Bench. The remaining amount of Rs.17,500/ (Rupees seventeen thousand five hundred) shall be released to the petitioner i.e. National Insurance Co Ltd.

Petition is allowed to the extent mentioned above.