
(2003) 04 JH CK 0074

In the Jharkhand High Court

Case No : Civil Revision No. 71 of 2003

National Insurance Company Ltd.

APPELLANT

Vs

Gopal Prasad and Others

RESPONDENT

Date of Decision : 08-04-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2004) 1 ACC 159 : (2003) 2 JCR 708

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Alok Lal, for the Appellant; None, for the Respondent

Judgement

M.Y. Eqbal, J.—This revision application is directed against the order dated 23.11.2002 passed by the Motor Vehicles Accident Claims Tribunal, Ranchi in Execution Case No. 1 of 1998, whereby he has directed the petitioner Insurance Company to pay the award calculating interest from the date of application till 16.11.99.

2. The facts of the case in brief is that, the claimant/opposite parties filed Compensation Case No. 99/90 for the grant of compensation on account of death of Sheo Govmd Ram. The Tribunal awarded a sum of Rs. 1,49,850/- and it was directed that out of the aforesaid amount, a sum of Rs. 25,000/- is granted as ad interim compensation and Rs. 20,000/- being one time payment shall be deducted and the Insurance Company shall pay the amount with interest at the rate of 12% per annum from the date of petition 60 days from the date of the judgment. The operative portion of the judgment is quoted herein below :--"Therefore, Rs. 2700/- x 55 1/2 months comes to Rs. 1,49,850/- from which a sum of Rs. 25.000/- granted as ad interim relief and Rs. 20,000/- for being one time payment and other factors, shall be deducted. Insurance Company is directed to pay this money with interest at the rate of 12% from the date of the petition, within 60 days from today."

3. The case of the claimant/deed holder was that the interim compensation of Rs. 25,000/- has not been paid and therefore total amount of compensation after calculating interest comes to Rs. 3,14,203/-out of which Insurance Company was deposited a cheque of Rs. 1,93,904/-.

4. The case of the Insurance Company is that out of the total compensation of Rs. 1,49,850/-, a sum of Rs. 20,000/-has been ordered to be deducted being one time payment. Thus after deducting Rs. 20,000/- and Rs. 25,000/- which was paid by way of ad interim compensation, total awarded amount comes to Rs. 1,04,850/-. On the said amount interest at the rate of 12% has been calculated and a sum of Rs. 1,93,904/- has been paid to the claimant vide cheque dated 16.11.99. The Tribunal took the view that since interim compensation amount was not paid at a time inasmuch as Rs. 25,000/- which was deposited by way of interim compensation was not received by the claimant the Insurance Company is not entitled to deduct Rs. 20,000/- as directed by the Tribunal and the Insurance Company is liable to pay entire amount of compensation of Rs. 1,49,850/- with interest at the rate of 12% from the date of the application.

5. It appears that against the judgment and award passed by the tribunal, the Insurance Company preferred appeal in this Court and deposited Rs. 25,000/- as required u/s 173 of the Motor Vehicle Act. The appeal was ultimately dismissed as abated. The Insurance Company thereafter paid a sum of Rs. 1,93,904/- in 1999 after deducting Rs. 25,000/- and Rs. 20,000/- as directed by the Tribunal, Admittedly, a sum of Rs. 25,000/- which was deposited by the Insurance Company in the aforementioned appeal being M.A. No. 112/96 was not paid to the claimant. As a matter of fact the aforesaid amount of Rs. 25,000/- was deposited by the Insurance Company in order to comply the statutory requirement for entertaining the appeal and not for paying the same to the claimant. Since, admittedly a sum of Rs. 25,000/-was not paid to the claimant, the said amount ought not to have been deducted from the total amount of compensation. The Insurance Company was therefore liable to pay interest at the rate of 12% per annum on the award amount minus (-) Rs. 20,000/- i.e. Rs. 1,29,850/- from the date of the award till the date of the payment. The impugned order needs modification to the extent that the Insurance Company shall pay interest on Rs. 1,29,850/- from the date of the award till 16.11.99. Consequently the differences of the interest amount shall be deposited by the Insurance Company in the Court below after calculating the interest as indicated above.

6. With the aforesaid modification, this revision application is disposed of.