

(2004) 02 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Review Petition No. 2 of 2004

National Insurance Company Ltd.

APPELLANT

Vs

Hurma Devi (Smt.) and Others

RESPONDENT

Date of Decision : 25-02-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 27
Motor Vehicles Act, 1988 — Section 169
Rajasthan Motor Vehicles Rules, 1990 — Rule 10.27

Citation : (2004) 3 ACC 198 : (2006) ACJ 283 : AIR 2004 Raj 269 : (2004) 3 RLW 1399 : (2004) 2 WLC 713

Hon'ble Judges : Shiv Kumar Sharma, J;F.C. Bansal, J

Bench : Division Bench

Advocate : Rakesh Bhargava, for the Appellant;

Final Decision : Dismissed

Judgement

Shiv Kumar Sharma, J.—Petitioner-National Insurance Company in the instant petition seeks to review the order dated May 8, 2000 passed in DB Civil Special Appeal No. 26/2000, whereby the Special Appeal filed by the petitioner was ordered to be dismissed summarily at the admission stage.

2. It is contended by the learned counsel that the learned Single Judge while deciding writ petition, did not consider the application under Order 41 Rule 27 CPC which was already on record.

3. Having heard the submissions and scanned the relevant provisions we find that Claims Tribunal has all the powers of the Civil Court and mandatory provisions in this regard envisaged under Rule 10.27 of the Rajasthan Motor Vehicles Rules 1990, which demarcate limited powers of Claims Tribunal as a Civil Court. Rule 10.27 reads thus:-

" 10.27. Power vested in Civil Court which may be exercised by Claims Tribunal.

(1) Without prejudice to the provisions of Section 169,-

(a) every claims tribunal, may exercise all or any of the powers vested in a Civil Court under the following provisions of the Code of Civil Procedure, 1908, in so far as they may be applicable, namely:-

Section 30, 32, 34, 35(a), 75 (a) & (c), 76, 77, 94, 95, 132, 133, 144, 145, 147, 148, 149, 151, 152 & 153.

(b) and subject to the provisions of the Section 174.

(2) For purpose other than those specified in Sub-rule (1), the Claims Tribunal may exercise all or any of the powers of Civil Court as may be necessary in any case for discharging its functions under the act and these rules."

4. In our considered opinion the Claims Tribunal established under the Motor Vehicles Act, 1988 and Rules framed thereunder have a colour of Civil Court for limited purpose as envisaged u/s 169 of the said Act read with Rule 10.27 of the Rules framed thereunder. It is pertinent to mention here that there is no ambiguity under statutory Rules 10.27 which clearly named various sections of the Code of Civil Procedure, which may be exercised by a claims Tribunal. There is no mention in the aforesaid Rule about applicability of Order 41 Rule 27 of CPC. Hence, we find ourselves unable to hold that application under Order 41 Rule 27 CPC was maintainable. For this purpose the provision indicted in Rule 10.27 can not be stretched. We also find that while making submission before us the point in regard to filing of application Under order 41 Rule 27 before the learned Single Judge was not raised at all.

5. For these reasons, the review petition being devoid of merit stands dismissed.