

(1999) 04 PAT CK 0028

In the Patna High Court

Case No : M.A. No's. 141, 152 and 159 of 1998 (R)

New India Assurance Co.

APPELLANT

Vs

Renu Devi
 National Insurance Co. Vs M. Kaur

RESPONDENT

Date of Decision : 20-04-1999

Acts Referred:

Motor Vehicles Act, 1988 — Section 174

Citation : (1999) 2 BLJR 1390

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

Bench : Single Bench

Judgement

M.Y. Eqbal, J.—These appeals have been placed along with notes of the Stamp Reporter for deciding the objection raised by the appellant with regard to the amount of Court-fee payable in the memorandum of appeal filed against the award passed by the Motor Vehicle Accident Claims Tribunal.

2. It appears that the memorandums of appeals have been filed along with the Court-fee stamp of Rs. 15/- and the Stamp Reporter has given a note that the Court fee stamp of Rs. 250/- is payable in the memos of appeals.

3. I have heard Mr. D.C. Ghosh and Mr. Srivastava learned Counsel appearing on behalf of the appellants and perused the memos of appeals. These appeals have been filed by the appellant-Insurance Company challenging the award passed by the Motor Vehicle Accident Claims Tribunal (hereinafter referred to as the Tribunal) awarding compensation to the claimants on account of death caused by motor vehicle accident.

4. According to the learned Counsel for the appellants, Court fee stamp in the memorandum of appeals is payable under Article 11 (Schedule II) of the Court Fees Act and Article 1 (Schedule I) of the Court Fees Act is not applicable. I find force in the submission of the learned Counsel.

5. Article 11 (Schedule II) of the Court Fees Act, 1870 reads as under:

11. Memorandum of appeal (a) to any Civil Court other than a High Court or any Revenue Court or Executive Officer having force of a decree is filed other than the High Court or Chief Controlling Revenue or Executive Authority.

(b) to a High Court or Chief Commissioner or other Chief Controlling Executive or Revenue Authority. 6. In Bihar this provision was amended time to time and finally by Court Fees (Bihar Amendment) Act, 1995 (Act 7 of 1996) the following has been substituted:

9. Memorandum of (a) To any Civil Court 500 appeal when the appeal other than a High Court is not from a decree or to any Revenue Court an order having the force of a decree and is other than the High Court or Chief Controlling Revenue or Executive Authority. (b) to a High Court or 1500 Chief Commissioner or other Chief Controlling Executive or Revenue Authority.

7. From perusal of the aforesaid provisions, it is clear that in a memorandum of appeal presented to the High Court against an order or a decree having not the force of a decree, the amount of Court-fee payable is Rs. 15/-

8. It is well settled that the Motor Vehicle Accident Claims Tribunals : have been constituted by inserting a special provision under the Motor Vehicles Act conferring power to the Tribunal to entertain claim applications and to decide in a summary proceeding the claim for payment of compensation in respect of death or bodily injury arising out of use of motor vehicles. Section 174 of the Motor Vehicles Act, 1988 provides that after an award is passed, the Claims Tribunal, on an application made by the person entitled to the same, may issue a certificate for the said award amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue. It is true that the amount of compensation awarded by the Claims Tribunal is recoverable as a land revenue, but that by itself would not make the award of the Tribunal an order having the force of a decree. In my opinion, therefore, Article 11 (Schedule 11) of the Court Fees Act, 1870 as substituted by Article 9 of Schedule 11 of the Bihar Amendment Act of 1996 is applicable and the requisite Court-fee payable in such memo of appeal filed in the High Court is Rs. 15/- and not Rs. 250/- as reported by the Stamp Reporter. I, therefore, hold that in memo of appeal arising out of an award of Motor Vehicles Claims Tribunal the provisions of Article 9 (Schedule 11) of the Bihar Court Fees) Amendment Act, 1996 will apply and the Court fee payable will be Rs. 15/-.

9. Accordingly, the Court fee stamp paid by the appellants in these appeals are sufficient. Let these appeals be listed for admission.