
(1991) 07 MP CK 0009
In the Madhya Pradesh High Court
Case No : M.A. No. 307 of 1990

New India Assurance Co. Ltd.

APPELLANT

Vs

Hasinabai and Others

RESPONDENT

Date of Decision : 09-07-1991

Acts Referred:

Motor Vehicles Act, 1939 — Section 92A
Motor Vehicles Act, 1988 — Section 140

Citation : (1992) 75 CompCas 799

Hon'ble Judges : R.K. Verma, J

Bench : Single Bench

Advocate : V.V. Dandwate, for the Appellant; S.K. Jain, for the Respondent

Final Decision : Allowed

Judgement

1. Heard on I. A. 2548 of 1991 which is an application by respondent No. 1, the claimant Hasinabai, whereby she has prayed that the instant appeal which is directed against the interim award made by the Tribunal may be allowed. The other claimant-respondent No. 2 appears to have been served through counsel but she is stated to have died during the pendency of the claim.

2. This appeal is directed against the interim award of Rs. 25,000 made on July 18, 1990, by the Motor Accidents Claims Tribunal, Mhow, in Claim Case No. 83 of 1987. It is stated by learned counsel for respondent No. 1 that the motor accident resulting in the death of the deceased, Munshi, occurred prior to the Motor Vehicles Act of 1988 which came into force with effect from July 1, 1989. It has been submitted that u/s 92A of the Motor Vehicles Act of 1939, a compensation of Rs. 15,000 has been provided in respect of the death by motor accident on the basis of "no fault" principle. The said provision of Section 92A of the Act of 1939 being operative on the date of accident, a sum of Rs. 15,000 only shall be payable in an interim award and not a sum of Rs. 25,000 as has been awarded by applying Section 140 of the new Motor Vehicles Act of 1988 which cannot be made applicable retrospectively.

3. In support of his submission, learned counsel has cited a decision of the Supreme Court in *National Insurance Co. v. Bhagwandas* (S. L. P. No. 14593 of 1989 decided on December 20, 1989) [1990] 2 MPWN 202. In that case, it was held that, in view of the fact that the accident took place prior to the insertion of Section 92A in the Motor Vehicles Act of 1939, the High Court had no justification to refer to that provision for fixing liability for the compensation on the insurer. On a parity of reasoning, it has been submitted and rightly so that, in view of the fact that the accident in the instant case took place prior to the coming into force of the Motor Vehicles Act of 1988, there is no justification to refer to Section 140 of that Act for fixing liability for compensation on the insurer. As such, the award of Rs. 25,000 u/s 140 of the new Act cannot be justified and the interim award should have been only for Rs. 15,000 u/s 92A of the Motor Vehicles Act, 1939.
4. Accordingly, the application aforesaid as well as this appeal are allowed. The impugned interim award is, accordingly, modified inasmuch as the interim compensation awarded shall be Rs. 15,000 instead of Rs. 25,000.
5. There shall, however, be no order as to costs of this appeal.