
(2008) 05 GAU CK 0033
In the Gauhati High Court

New India Assurance Co. Ltd.

APPELLANT

Vs

Lohit District Legal Service Authority and Others

RESPONDENT

Date of Decision : 06-05-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Legal Services Authorities Act, 1987 — Section 19, 20
Motor Vehicles Act, 1988 — Section 140, 149, 166, 173

Citation : (2010) ACJ 469 : AIR 2008 Guw 166 : (2009) 2 GLR 433 : (2008) 3 GLT 824

Hon'ble Judges : I.A. Ansari, J

Bench : Single Bench

Judgement

I.A. Ansari, J.—The material facts, leading to this writ petition, may, in brief, be set out as follows:

(i) The respondent No. 2 herein, namely, Smt. Ratna Chatterjee, had filed an application, u/s 166 of the Motor Vehicles Act, 1988, (in short, "the M.V. Act"), seeking compensation for the death of her husband, who was killed in an accident, which had taken place, on 9-6-2006, near Medical Charali, at Chagkham, involving the vehicle (Tractor) bearing registration No. AS-06-2635. This claim application gave rise to MAC Case No. 9/2006.

(ii) The claimant respondent No. 2 had also made an application, u/s 140 of the M.V. Act, seeking compensation on the basis of the principle of "No Fault".

(iii) By an order, passed, on 11-9-2006, in MAC Case No. 9/2006, the learned Motor Accident Claims Tribunal, Tezu, directed the respondent No. 3 herein, namely, Sri Rajendra Kumar Lahoti, as owner of the said vehicle, and the present petitioner, as insurer of the said vehicle, to pay Rs. 50,000/-, as compensation, on the basis of the "No Fault Liability" within a period of 30 days from the date of receipt of the said order.

(iv) Thereafter, M.A.C. case No. 9/2006 aforementioned was placed in the Lok

Adalat, at Tezu, on 19-12-2006. In this Lok Adalat, the present petitioner, as insurer, had not appeared. In the absence of the present petitioner, the learned Lok Adalat proceeded ex parte and determined a sum of Rs. 12,34,836/-, as compensation, and directed the present petitioner, as insurer of the said vehicle, to pay to the claimant-respondent No. 2 the said sum of Rs. 12,34,836/- within a period of two months from the date of the order or else, the said amount shall bear interest @ 6% per annum.

2. Aggrieved by the two orders, dated 11-9-2006, aforementioned, (i.e. the order, dated 11-9-2006, whereby the petitioner has been directed by the learned Tribunal to pay compensation of Rs. 50,000/-, on the basis of "No Fault", u/s 140 of the M.V. Act and also the order, dated 19-12-2006, whereby the petitioner has been directed, u/s 166 of the M.V. Act, by the learned Lok Adalat to pay, in all, the said sum of Rs. 12,34,836/-, as compensation), the petitioner, as insurer of the said vehicle, has impugned the same, in this writ petition, by making this application under Article 226 of the Constitution of India.

3-4. I have heard Mr. A. Ahmed, learned Counsel for the petitioner. None has appeared on behalf of the respondents.

5. Before I enter into the merit of the two impugned orders, whereby the present petitioner has been directed to pay compensation under Sections 140 and 166 of the M.V. Act, it is necessary to point out that a writ of certiorari can be issued under Article 226. Even under its supervisory power under Article 227, a High Court can exercise such power(s), which are exercisable in certiorari jurisdiction, though the basis for exercise of powers under Article 227 is quite distinct and different from Article 226 in the sense that a High Court assumes jurisdiction under Article 226 if cause of action, wholly or in part, has arisen within its territorial limits, whereas the High Court exercises jurisdiction under Article 227 on the basis of its supervisory control on the Courts and tribunals located within its territorial jurisdiction. Referring to the Constitution Bench decision in Hari Vishnu Kamath Vs. Syed Ahmad Ishaque and Others, and some other judicial pronouncements in the realm of issuance of writs of certiorari, the apex court, in Surya Dev Rai Vs. Ram Chander Rai and Others, , has explained, in the following words, the parameters of the High Court's jurisdiction to issue a writ of certiorari in exercise of its powers under Article 226.

10. Article 226 of the Constitution of India preserves to the High Court the power to issue writ of certiorari amongst others. The principles on which the writ of certiorari is issued are well settled. It would suffice for our purpose to quote from the seven-Judge Bench decision of this Court in Hari Vishnu Kamath Vs. Syed Ahmad Ishaque and Others, . The four propositions laid down therein were summarized by the Constitution Bench in The Custodian of Evacuee Property, Bangalore Vs. Khan Saheb Abdul Shukoor, etc., . The High Court was not justified in looking into the order of 2-12-1952, as an appellate Court, though it would be justified in scrutinizing that order as if it was, brought before it under Article 226 of the Constitution for issue of a writ of certiorari. The limit of the jurisdiction of

the High Court in issuing writs of certiorari was considered by this Court in *Hari Vishnu Katnath v. Ahmad Ishaque* and the following four propositions were laid down 1. Certiorari will be issued for correcting errors of jurisdiction; 2. Certiorari will also be issued when the Court or tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice; 3. The Court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review findings of fact reached by the inferior Court or tribunal, even if they be erroneous; 4. An error in the decision or determination itself may also be amenable to a writ of certiorari if it is a manifest error apparent on the face of the proceedings, e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not mere wrong decision.

XXX XXX XXX XXX

12. In the exercise of certiorari Jurisdiction, the High Court proceeds on an assumption that a Court which has jurisdiction over a subject-matter has the jurisdiction to decide wrongly as well as rightly. The High Court would not, therefore, for the purpose of certiorari assign to itself the role of an appellate Court and step into re-appreciating or evaluating the evidence and substitute its own findings in place of those arrived at by the inferior Court.

13. In *Nagendra Nath Bora v. Commr. Of Hills Division and Appeals* AIR 1955 SC 398, the parameters for the exercise of jurisdiction, calling upon the issuance of writ of certiorari were so set out by the constitution Bench : (AIR pp. 412-13, paras 26-27). The common law writ, now called the order of certiorari, which has also been adopted by our Constitution, is not meant to take the place of an appeal where the statute does not confer a right of appeal. Its purpose is only to determine, on an examination of the record, whether the inferior tribunal has exceeded its Jurisdiction or has not proceeded in accordance with the essential requirements of the law which it was meant to administer. Mere formal or technical errors, even though of law, will not be sufficient to attract this extraordinary jurisdiction. Where the errors cannot be said to be errors of law apparent on the face of the record, but they are merely errors in appreciation of documentary evidence or affidavits, errors in drawing inferences or omission to draw inference or in other words errors which a Court sitting as a Court of appeal only, could have examined and, if necessary, corrected and the Appellate Authority under the statute in question has unlimited jurisdiction to examine and appreciate the evidence in the exercise of its appellate or revisional jurisdiction and it has not been shown that in exercising its powers the Appellate Authority disregarded any mandatory provisions of the law but what can be said at the most was that it had disregarded certain executive instructions not having the force of law, there is no case for the exercise of the jurisdiction under Article 226.

14. The Constitution Bench in *T.C. Basappa Vs. T. Nagappa and Another*, held

that certiorari may be and is generally granted when a Court has acted (i) without jurisdiction, or (ii) in excess of its jurisdiction. The want of jurisdiction may arise from the nature of the subject-matter of the proceedings from the absence of some preliminary proceedings or the Court itself may not have been legally constituted or suffering from certain disability by reason of extraneous circumstances. Certiorari may also issue if the Court or tribunal, though competent has acted in flagrant disregard of the rules or procedure or in violation of the principles of natural justice where no particular procedure is prescribed. An error in the decision of determination itself may also be amenable to a writ of certiorari subject to the following factors being available if the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or disregard of the provisions of law but mere wrong decision is not amenable to a writ of certiorari.

xxx xxx xxx xxx

19. Thus, there is no manner of doubt that the orders and proceedings of a judicial Court subordinate to the High Court are amenable to writ jurisdiction of the High Court under Article 226 of the Constitution.

20. Authority in abundance is available for the proposition that an error apparent on the face of record can be corrected by Certiorari. The broad working rule for determining what is a patent error or an error apparent on the face of the record was well set out in *Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale*. It was held that the alleged error should be self evident. An error, which needs to be established by lengthy and complicated arguments or an error in a long drawn process of reasoning on points where there may conceivable be two opinions cannot be called a patent error. In a writ of certiorari the High Court may quash the proceedings of the tribunal, authority or Court but may not substitute its own findings or directions.

6. The fallout of the above observations, made in *Surya Dev Rai (supra)*, is that there are, at least, four circumstances in which a writ of certiorari may be issued by a High Court in exercise of powers under Article 226, the four circumstances being as under:

I. Certiorari will be issued for correcting errors of jurisdiction, i.e. when an authority assumes jurisdiction, where no such jurisdiction exists.

II. Certiorari will also be issued when the Court or tribunal acts illegally in the exercise of its undoubted jurisdiction, for, when it decides without giving an opportunity to the parties to be heard or violates the principles of natural justice.

III. The Court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review findings of fact reached by the inferior Court or tribunal, even if they be erroneous.

IV. An error in the decision or determination itself may also be amenable to a

writ of certiorari if it is a manifest error apparent on the face of the proceedings, e.g., when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error, which can be corrected by certiorari but not mere wrong decision.

7. In effect, Surya Dev Rai (supra) recognizes the fact and is an authority for the proposition that in the four distinct circumstances, as enumerated hereinabove, a High Court may, in exercise of its jurisdiction under Article 226, issue a writ of certiorari or an order or direction in the nature of a writ of certiorari against a decision or order of a subordinate Court or tribunal.

8. Turning to the question whether an order or direction in the nature of a writ of certiorari can be issued by High Court in exercise of its supervisory jurisdiction under Article 226, it is worth noticing that in exercising certiorari jurisdiction, a High Court, in effect, commands the Court or tribunal, as the case may be, to certify its record or proceedings to the High Court so as to enable the High Court to determine if, on the face of the record, the subordinate Court or tribunal has committed any error of jurisdiction in the sense whether it has acted without jurisdiction or while acting in exercise of its jurisdiction, it has violated the principles of natural justice or whether there is an error apparent on the face of the record, i.e., when a finding or decision is based on clear ignorance or disregard of the provisions of law. A writ of certiorari is not available against a wrong, but against an error, which is a patent error.

9. As far as Article 226 is concerned, there can be no dispute that the High Court can, in an appropriate case, issue a writ of certiorari or an order or direction in the nature of a writ of certiorari in exercise of its supervisory control if any of the conditions precedent, as discussed hereinabove, is present, in an order or decision of a subordinate Court, necessitating the High Court's interference in exercise of its supervisory jurisdiction under Article 226.

10. In fact, in the State, through Special Cell, New Delhi Vs. Navjot Sandhu @ Afshan Guru and Others, , the Supreme Court had culled out the principles governing the exercise of powers under Article 227. Taking into account what had been culled out as the parameters of the powers of the High Courts under Article 227 in Navjot Sandhu (supra), the Supreme Court, in Surya Dev Rai (supra), observed thus:

The principles deducible, well settled as they are, have been well summed up by a two Judge Bench of this Court recently in State, through Special Cell, New Delhi Vs. Navjot Sandhu @ Afshan Guru and Others, . This Court held: i. The jurisdiction under Article 227 cannot be limited or fettered by any Act of the State Legislature; ii. The supervisory jurisdiction is wide and can be used to meet the ends of justice, also to interfere even with an interlocutory order; iii. The power must be exercised sparingly, only to keep subordinate Courts and tribunals within the bound of their authority to see that they obey the law. The power is not available to be exercised to correct mere errors (whether on the facts or

laws) and also cannot be exercised "as the cloak of an appeal in disguise.

11. What is, however, of immense importance to note is that the Apex Court has clarified, in *Surya Dev Rai (supra)*, that while exercising certiorari jurisdiction, the High Court proceeds on the assumption that the Court, which has the jurisdiction over a subject matter, has the jurisdiction to decide wrongly as well as rightly and that the High Court would not, therefore, assign to itself, while exercising the power of certiorari, the role of an appellate Court and step into appreciating or evaluating the evidence and/or substitute its own findings in the place of those arrived at by the inferior Court. In short, while acting on the certiorari jurisdiction under Article 226 or supervisory jurisdiction under Article 227, though the High Court cannot convert itself into an appellate Court, it remains free to exercise the powers of issuing writ of certiorari if the conditions precedent for exercise of such powers exists.

12. A catena of authorities puts it beyond doubt that the power of the High Court under Articles 226 and 227 cannot be restricted by a statute. The restraint of not interfering with an order, which is adhered to by the High Courts, is really a self-imposed restriction and this restriction will not stand in the way of exercise of writ jurisdiction if the grounds for exercise of such powers exist. In other words, notwithstanding the relief provided, within the scheme of an enactment, against an order passed by a Court or Tribunal, the High Court can still exercise jurisdiction of issuing writ of certiorari under Articles 226 and/or 227, when the Tribunal or the Court, subordinate to the High Court, is found to have acted without jurisdiction i.e. by assuming jurisdiction, where no such jurisdiction exists, or refuses to exercise jurisdiction, where the jurisdiction exists, or acts beyond its jurisdiction or acts in flagrant disregard of law or rule governing its function or in violation of the principles of natural justice occasioning thereby failure of justice or when its order is based on clear misreading or utter disregard of the provisions of law or when it acts under a statute, which is *ultra vires*. Though a mere erroneous decision is not amenable to writ jurisdiction under article 226 and/or 227, yet when an error is apparent on the face of the proceedings, such as, when it is based on clear ignorance or utter disregard of the provisions of law or gross failure of justice has occasioned thereby, the power to issue writ of certiorari under supervisory jurisdiction may be resorted to, though this power should be invoked sparingly and only in appropriate cases, where the judicial consciousness of the High Court dictates it to act, lest a gross violation of justice or grave injustice should occasion. (See *L. Chandra Kumar Vs. Union of India and others*, , *Neville v. London Express Newspaper Ltd.* 1919 AC 368, *Attorney General of Trinidad and Tobago v. Gordon Grant and Co.* 1935 AC 532 , *AIR 1940 105 (Privy Council)* *Thansingh Nathmal and Others Vs. A. Mazid, Superintendent of Taxes*, , *ABL International Ltd. and Another Vs. Export Credit Guarantee Corporation of India Ltd. and Others*, , *Seth Chand Ratan Vs. Pandit Durga Prasad (D) by Lrs. and Others*, , *K. Venkatachalam Vs. A Swamickan and Another*, *A.V. Venkateswaran, Collector of Customs, Bombay Vs. Ramchand Sobhraj Wadhwani and Another*, , *State of Madhya Pradesh v. Mohammad Nooh*

AIR 1958 SC 86 , Harbanslal Sahnia and Another Vs. Indian Oil Corpn. Ltd. and Others, , Baburam Prakash Chandra Maheshwari Vs. Antarim Zila Parishad now Zila Parishad, Muzaffarnagar, , Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others, , Surya Dev Rai Vs. Ram Chander Rai and Others, , State, through Special Cell, New Delhi Vs. Navjot Sandhu @ Afshan Guru and Others, , T.C. Basappa Vs. T. Nagappa and Another, and Dwarka Nath Vs. Income Tax Officer, Special Circle D-ward, Kanpur and Another, .

13. Bearing in mind the principles governing High Court's exercise of jurisdiction under Article 226 and/or 227 with regard to an order passed by a subordinate Court or a tribunal, let me, now, proceed to determine the merit of the directions given, under Sections 140 and 166, by the two impugned orders, dated 11-9-2006.

14. While considering the impugned order, dated 11 -9-2006, passed u/s 140, what needs to be pointed out is that the relevant provisions of Section 140 read thus:

140. Liability to pay compensation in certain cases on the principle of no fault -
(1) Where death due to permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) to (4) xxx xxx xxx

15. From a cautious reading of the relevant provisions of Section 140, what becomes clear is that Section 140 makes, primarily, the owner of the vehicle liable to pay compensation on the principle of "No Fault", that is, irrespective of the fact as to whether the accident took place due to wrongful act, neglect or default of the person, who drove the vehicle, or not. This Section (i.e. Section 140) does not per se make the insurer liable. The insurer is required to indemnify the owner for the liability, which the owner may incur, u/s 140, to pay compensation on the principle of "No Fault". An order, made u/s 140, is also an award and it is appealable u/s 173 of the MV Act.

16. When a direction, u/s 140, can be passed against an insurer, the insurer must be inferred to have the right to refute its liability in terms of the defences available to an insurer under Sub-section (2) of Section 149. In an appropriate case, even the owner of the vehicle may deny his liability on the ground that his vehicle was not involved in the accident, for, when a vehicle is not involved in an accident, its owner cannot be saddled with the liability to pay compensation on the principle of even "No Fault". When any of the defences available to the insurer, u/s 149, is taken by an insurer in a proceeding u/s 140, the Motor Accidents Claims Tribunal has the duty to adjudicate upon the same and decide the issue as regards the liability of the insurer to indemnify the owner u/s 140 of the Act. Hence, when a separate application is filed u/s 140 of the M.V. Act, an

insurer has to be served with a notice before any order is passed making it liable to pay compensation u/s 140 and, upon receiving such a notice, an insurer may take such defence(s) as may be statutorily available to the insurer u/s 149(2) of the M.V. Act. A reference, in this regard, may be made to the case of Smt. Yallwwa and Others Vs. National Insurance Co. Ltd. and Another, .

17. Having indicated the position of law that a notice must precede the passing of even an order, u/s 140, making an insurer liable to pay compensation, it, now, needs to be pointed out that when a query was made by this Court, Mr. Ahmed, learned Counsel for the insurer-petitioner, could not specifically submit as to whether the insurer had been served with any notice or not on the application made by the claimant u/s 140 nor could Mr. Ahmed submit as to whether the insurer had denied its liability to pay compensation, even u/s 140, in the present case, or not.

18. In the present case, thus, it is not clear as to whether the insurer was served with a notice u/s 140 or not. In other words, the present petitioner, as insurer, has failed to show that it had not been served with any notice before the impugned order, u/s 140, was passed by the learned Tribunal. This apart, an order, u/s 140, as already indicated here-inabove, is an appealable order u/s 173 inasmuch as the right to appeal is available to the insurer even against an order made u/s 140, for, an order directing payment of compensation, even u/s 140, is an award. Furthermore, no reason has been assigned by the insurer to show as to why it has chosen not to prefer any appeal against the order, dated 11-9-2006, passed, u/s 140, by the learned Tribunal. In the circumstances, as indicated hereinbefore, the impugned order, dated 11-9-2006, passed u/s 140, cannot be interfered with by taking resort to Article 226 and/or 227, for, an order cannot be, ordinarily, interfered with by taking recourse to Article 226 and/or 227, when the alternative remedy in the form of appeal is available and, particularly, when it is not the specific case of the insurer that no notice had been served on the insurer before the impugned order dated 11-9-2006 was passed, u/s 140, by the learned Tribunal.

19. I may, however, hasten to point out that this Court's declining to interfere with the impugned order, dated 11-9-2006, made u/s 140, cannot be construed to have deprived of, or taken away, the present insurer's statutory right, which the insurer, otherwise, has, u/s 173, to prefer an appeal against the order made u/s 140. It, therefore, deemed necessary, the insurer may prefer an appeal, u/s 173, against the order, dated 11-9-2006, in accordance with law.

20. Now, turning to the order, dated 19-12-2006, passed by the learned Lok Adalat, directing the insurer to pay, u/s 166, a total sum of Rs. 12,34,836/-, as compensation, to the claimant respondent No. 2, what needs to be pointed out that it is Section 20 of the Legal Services Authority Act, 1987, (in short, "the Act of 1987"), which gives the power of taking cognizance to Lok Adalats and also embodies the scheme for disposal of cases and also passing of effective and enforceable order(s) at the Lok Adalats. A careful perusal of Section 20 of the Act

of 1987 is, therefore, necessary. For the sake of clarity, Section 20 is produced hereinbelow:

Section 20. Cognizance of cases by Lok Adalats.- (1) Where in any case referred to in Clause (i) of Sub-section (5) of Section 19(i)(a) the parties thereof agree; or (b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such Court is prima facie satisfied that there are chances of such settlement; or

(ii) The Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under Sub-clause (b) of Clause (i) or Clause (ii) by such Court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under Sub-section (1) of Section 19 may, on receipt of an application from anyone of the parties to any matter referred to in Clause (ii) of Sub-section (5) of Section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under Sub-section (1) or where a reference has been made to it under Sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the Court, from which the reference has been received under Sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in Sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a Court.

(7) Where the record of the case is returned under Sub-section (5) to the Court, such Court shall proceed to deal with such case from the stage which was reached before such reference under Sub-section (1).

21. Sub-section (3) of the Section 20 of the Act of 1987 makes it clear that a Lok Adalat shall proceed to dispose of the case or the matter, placed before it, on the basis of compromise entered into or settlement reached between the parties concerned. An award passed by a Lok Adalat must be based on the consensus arrived at by the parties concerned and not on the basis of adjudication of relative merit of the cases set up by the rival parties. When the provisions of Sub-section (3) of Section 20 are read, in conjunction with the provisions of Sub-section (5) of Section 20, it becomes clear that no order directing payment of compensation, or otherwise, be made by the Lok Adalat except when both the parties to the proceeding reach a compromise or settlement. Hence, when a Lok Adalat passes any order(s) imposing a liability to pay compensation, u/s 166, ex parte or without a compromise or settlement having been reached by the parties concerned as regards the dispute or controversy which the case placed before the Lok Adalat involves, such an order would be ex facie against the provisions of Section 20 and in complete violation of the scheme of the Act of 1987. Such an order would, in fact, be an order without authority of law.

22. Bearing in mind what have been pointed out above as regards the provisions of Section 20 of the Act of 1987, when I revert to the impugned order, dated 19-12-2006, passed by the learned Lok Adalat, u/s 166, imposing a liability, on the present insurer, to pay a sum of Rs. 12,34,836/-, what becomes glaringly noticeable to the eyes is that this order has been passed ex parte against the present petitioner as insurer of the vehicle meaning thereby that no compromise or settlement had been reached between the parties concerned. When the insurer had not agreed to pay compensation amounting to Rs. 12,34,836/- or any part thereof, the learned Lok Adalat could not have passed any order against the petitioner binding it to pay compensation. As the insurer's right of appeal, u/s 173, is circumscribed by the provisions of Sub-section (2) of Section 149, it is clear that an insurer cannot prefer an appeal on the grounds other than those, which are available to an insurer u/s 149. Strictly speaking, therefore, though the order, passed by the Lok Adalat, in the present case, is without any authority of law, it is doubtful how far such an order is challengeable by way of an appeal u/s 173 of the M.V. Act read with Section 149(2) thereof, for, Section 149(2) gives very limited rights of appeal to an insurer.

In the present case, in the face of the fact that no compromise or settlement had been reached by the parties concerned, the learned Lok Adalat had no authority to take cognizance of the case u/s 20 of the Act of 1987 and/or pass any order(s), u/s 166 of the M.V. Act, directing payment of compensation to the claimant-respondent. This impugned order, dated 19-12-2006, passed u/s 166, being wholly without jurisdiction, cannot be sustained and shall, if allowed to survive, cause serious miscarriage of justice. Such an order cannot but be interfered with by this Court in exercise of its, at least, supervisory jurisdiction under Article 227.

23. In the result and for the reasons discussed above, this writ petition partly

succeeds. While the impugned order, dated 11-9-2006, passed u/s 140 of the M.V. Act, is not interfered with, the impugned order, dated 19-12-2006, passed u/s 166 and also the notice, dated 6-2-2007, directing the insurer to pay the said sum of Rs. 12,34,836/- as compensation are hereby set aside and quashed. The claim proceeding is remanded back to the learned Tribunal with direction to dispose of the same in accordance with law.

24. With the above observations and directions, this writ petition shall stand disposed of.

25. No costs.