
(2010) 05 CAL CK 0008
In the Calcutta High Court
Case No : C.O. No. 2633 of 2009

New India Assurance Co. Ltd.

APPELLANT

Vs

V. Sakuntala Balmiki and Another

RESPONDENT

Date of Decision : 10-05-2010

Acts Referred:

Constitution of India, 1950 — Article 227
Motor Vehicles Act, 1988 — Section 158(6)

Citation : (2011) ACJ 1256

Hon'ble Judges : J. Bhattacharya, J

Bench : Single Bench

Advocate : K.K. Das, for the Appellant;

Judgement

J. Bhattacharya, J.—In spite of service of notice none appears on behalf of the opposite party to oppose the Petitioner's instant revisional application at the time when this application is called on for hearing today.

2. Let affidavit-of-service filed in court today be kept with the record.

3. An application was filed by the insurance company in a motor accident claim case being M.A.C.C. No. 76 of 2006 filed by claimant/opposite party, wherein the insurance company prayed for issuance of direction upon the Officer-in-charge of Watgunge Police Station to produce the driving licence of the driver of offending vehicle before the Tribunal. Such prayer of the insurance company was rejected by the learned Tribunal by holding, inter alia, that since the Tribunal has no duty to collect document, the direction which was sought for by the insurance company, cannot be issued.

4. Accordingly, the Petitioner's said application was rejected by the learned trial Judge.

5. The said order is under challenge in this application under Article 227 of the Constitution of India.

6. Heard Mr. Das, learned advocate of the Petitioner. Considered the materials on record.

7. Let me now consider the propriety of the said order in the context of this provision u/s 158(6) of the Motor Vehicles Act, 1988.

8. While considering the provision contained in Section 158(6) of the Motor Vehicles Act, 1988, the Hon''ble Supreme Court in the case of Jai Prakash Vs. National Insurance Co. Ltd. and Others, , issued the following direction to the police:

(a) Accident Information Report in Form 54 of the Central Motor Vehicles Rules, 1989 ("the AIR" for short) shall be submitted by the police (Station House Officer) to the jurisdictional Motor Accidents Claims Tribunal within 30 days of the registration of the F.I.R. In addition to the particulars required to be furnished in Form 54, the police should also collect and furnish the following additional particulars in the AIR to the Tribunal : (i) The age of the victim at the time of accident; (ii) The income of the victim; (iii) The names and ages of the dependent family members.

(b) The AIR shall be accompanied by attested copies of the F.I.R., site sketch/mahazar/photographs of the place of occurrence, driving licence of the driver, insurance policy (and if necessary, the fitness certificate) of the vehicle and the post-mortem report (in case of death) or the injury/wound certificate (in the case of injury). The names/addresses of the injured or dependent family members of the deceased should also be furnished to the Tribunal.

(c) Simultaneously, copy of the AIR with annexures thereto shall be furnished to the concerned insurance company to enable the insurance company to process the claim.

(d) The police shall notify the first date of hearing fixed by the Tribunal to the victim (injured) or the family of the victim (in case of death) and the driver, owner and insurer. If so directed by the Tribunal, the police may secure their presence on the first date of hearing.

9. In view of the aforesaid decision of the Hon''ble Apex Court, this Court cannot hold that the Tribunal cannot issue any direction upon the police authority for production of the driving licence of the driver of the offending vehicle.

10. Accordingly, the impugned order stands set aside. The Officer-in-charge of Watgunge Police Station is thus directed to produce the driving licence of the driver of the offending vehicle to the court of the learned Additional District Judge, 7th Fast Track Court at Alipore in M.A.C.C. No. 76 of 2006 positively within a period of two weeks from the date of communication of this order.

11. Mr. Das, learned advocate appearing for Petitioner, submits that the Accident Information Report is also necessary for complete adjudication of the said accident claim.

12. Mr. Das, however, submits that his client has not made any formal prayer for submission of such report by the police authority in connection with the said proceeding.

13. Be that as it may, since the submission of such Accident Information Report is a statutory duty of the police authority, this Court directs the Officer-in-charge of the Watgunge Police Station to submit such Accident Information Report in Form 54 before the learned Tribunal along with the said driving licence of the driver of the offending vehicle.

14. The revisional application is, thus, disposed of accordingly.

15. Urgent xerox certified copy of this order, if applied for, be given to the parties as expeditiously as possible.