
(1978) 02 CAL CK 0017
In the Calcutta High Court
Case No : Civ. Revision No. 170 of 1977

New India Assurance Company Ltd.

APPELLANT

Vs

Sri Ram Maini and Another

RESPONDENT

Date of Decision : 08-02-1978

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 227
Motor Vehicles Act, 1988 — Section 110A

Citation : (1978) ACJ 226

Hon'ble Judges : Pradyot Kumar Banerjee, J; Bimalendra Nath Maitra, J

Bench : Division Bench

Advocate : A.C. Bhattacharyya, for the Appellant; Jaya Bose, for the Respondent

Judgement

1. This is an application under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure. In our opinion Section 151 of the CPC is not applicable in the facts and circumstances of this case as the Petitioner is trying to set aside the order passed by a Tribunal and has invoked the jurisdiction of this Court under Article 227 of the Constitution of India. After the 42nd amendment of the Constitution reads as follows:

Every High Court shall have superintendence over all Courts subject to its appellate jurisdiction.

Mr. Bhattacharyya is moving this application against an order made by the Motor Claims Tribunal u/s 110A of the Motor Vehicles Act. As it is a statutory tribunal application under Article 227 will not lie. It is exactly the objection taken by Miss Jaya Bose appearing for opposite party. No. 1. Mr. Bhattacharyya thereupon contended that he might be given liberty to move in the other forum which is open to him. This order is made without prejudice to any right to the Petitioner to move in other Court having jurisdiction set aside the order of a tribunal.

2. While issuing the Rule we have directed the sum of Rs. 25,000/- may be

deposited before the Registrar, Appellate Side. This money will not be withdrawn by any of the parties for eight weeks from today. Thereafter the party entitled to it may apply for withdrawal of the same.

3. The Rule is therefore discharged. There will be no order as to costs.