
(2020) 07 J&K CK 0001

In the Jammu And Kashmir High Court

Case No : Miscellaneous Appeal No. 137 Of 2016

Oriental Insurance Co. Ltd

APPELLANT

Vs

Joginder Singh And Others

RESPONDENT

Date of Decision : 24-07-2020

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 149, 166, 173

Citation : (2020) 07 J&K CK 0001

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Vishnu Gupta

Final Decision : Disposed Off

Judgement

Sanjeev Kumar, J

1. This appeal under Section 173 of the Motor Vehicles Act filed by the Oriental Insurance Co. Ltd (hereinafter referred to as the 'insurer') is directed against the interim award (no fault liability award u/s 140 of M.V.Act) dated 17.05.2016 passed by the Motor Accident Claims Tribunal, Jammu (for short 'the Tribunal') in claim petition titled 'Joginder Singh vs. Branch Manager, Oriental Insurance Company Ltd'.

2. Amongst others, the impugned interim award has been assailed on the ground that the Tribunal while passing the impugned interim award has not considered the objections filed by the insurer.

3 It is submitted that the Tribunal, without adjudicating upon the defence of the insurer, has fastened the liability to satisfy the interim award on the insurer and has, thus, defeated the right of the insurer to raise defence to the claim petition as provided under Section 149 of Motor Vehicles Act.

4. Having heard learned counsel for the insurer and perused the record, I am of the view that the insurer is entitled to defend the claim petition on all permissible

grounds as laid down in Section 149 of M.V. Act, disposal of application u/s 140 of M.V.Act, notwithstanding.

5. The aforesaid plea of the insurer needs to be determined in the trial to be held in the petition filed under Section 166 of M.V.Act.

6. Having regard to, prima facie, substance in the defence pleaded by the insurer in its objections before the Tribunal, it would be in the fitness of things to dispose of this appeal by providing that the disbursement of the amount deposited in the Registry of this Court on account of 'no fault liability' shall await the final outcome of the petition filed under Section 166 MV Act. Ordered accordingly.

4. This appeal is, accordingly, disposed of, leaving it open to the insurer to raise all the pleas, which, it has raised in this appeal, before the Tribunal and the same shall be tried and adjudicated upon by the Tribunal in accordance with law.

5. Rs.12,500/- is stated to have been deposited in the Registry of this Court. Rest of the amount i.e Rs.12,500/- shall be deposited by the insurer in the Registry of this Court within four weeks. The amount deposited shall be kept in a FDR in some scheduled Bank for a period of six months.