
(1996) 10 MP CK 0049
In the Madhya Pradesh High Court
Case No : M.A. No. 261 of 1990

Oriental Insurance Co. Ltd.	Vs	APPELLANT
Lalita Bai and Others		RESPONDENT

Date of Decision : 08-10-1996

Acts Referred:

Employees Compensation Act, 1923 — Section 30
Motor Vehicles Act, 1988 — Section 140

Citation : (1998) ACJ 119

Hon'ble Judges : N.P. Singh, J

Bench : Single Bench

Advocate : T.C. Naik, for the Appellant; R.K. Pandey, for the Respondent

Final Decision : Allowed

Judgement

N.P. Singh, J.—This appeal u/s 30 of the Workmen's Compensation Act, 1923 arises out of the award passed by the Commissioner for Workmen's Compensation, Sagar dated 12.4.1990 in Case No. 10 of 1989 awarding interim compensation of Rs. 25,000/- to the claimants/ respondents u/s 92-A of the Motor Vehicles Act, 1939 on account of the death of the driver Kashiram in a motor accident on 5.2.1989. It is admitted that deceased Kashiram was driver of mini bus No. MPI 4675 belonging to the firm/respondent No. 6 on a salary of Rs. 750/- per month. The mini bus dashed against a tree in the intervening night of 4/5.2.1989 resulting in the death of Kashiram on the spot. The offending mini bus was insured with the appellant insurance company, The respondents/ claimants made an application before the Commissioner for Work-men's Compensation, Sagar for grant of compensation to the tune of Rs. 78,824/- on account of the death of the deceased, who was a workman, being employed as a driver in the firm of the respondent No. 6. They also made an application u/s 92-A of the Motor Vehicles Act, 1939 for grant of interim compensation, During the pendency of the case, new Motor Vehicles Act, 1988 came into force.

2. Learned Commissioner for Workmen's Compensation awarded interim

compensation of Rs. 25,000/- to the claimants/ respondents. As against that the appellant insurance company has preferred this appeal.

3. An objection was raised by the counsel for the respondents for non-compliance of third proviso to Section 30(1) of the Workmen's Compensation Act, 1923 that the memo of appeal is not accompanied by certificate of the Commissioner to the effect that the appellant has deposited with him the amount payable under the order in appeal.

4. The objection cannot be sustained in view of Division Bench decision of this Court in Northern India Insurance Co. Branch Indore Vs. Commissioner for Workmens Compensation and Others, wherein it has been held that the restriction contained in the proviso for depositing the amount is expressly limited to an appeal filed by the employer. The instant appeal has been preferred by the insurance company. Therefore, the third proviso to Section 30 of the Workmen's Compensation Act is not applicable and the appellant is not required to deposit any compensation amount with the Commissioner for Workmen's Compensation before filing an appeal.

5. The question of law raised in this appeal is whether the Commissioner for Workmen's Compensation can pass interim award to the tune of Rs. 25,000/- u/s 140 of the Motor Vehicles Act when the accident had taken place prior to the coming into force of the new Motor Vehicles Act, which has come into effect from 1.7.1989 and the liability of the insurance company u/s 92-A of the old Act was to the tune of Rs. 15,000/-.

6. It is settled by a catena of decisions that Section 140 of the new Motor Vehicles Act has no retrospective effect. In the instant case, the accident took place in February, 1989 when the old Motor Vehicles Act was in force. Therefore, this case is covered under the old Motor Vehicles Act, and the liability of the insurance company u/s 92-A of the Motor Vehicles Act, 1939 was to the extent of Rs. 15,000/- only. Therefore, the impugned order awarding interim compensation of Rs. 25,000/- to the claimants/respondents is not sustainable in law. Accordingly it is set aside and in the result the appeal is allowed but without cost.