

(2004) 01 GAU CK 0044
In the Gauhati High Court
Case No : C.R. (P) No. 26 (A) (SH) of 2002

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Rabi Ali and Others

RESPONDENT

Date of Decision : 29-01-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 142

Citation : (2004) GLT 465 Supp

Hon'ble Judges : B.K. Sharma, J

Bench : Single Bench

Advocate : S. Dutta, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

B.K. Sharma, J.—This civil revision petition is directed against an order dated 1.5.2002 passed by the Motor Accident Claims Tribunal, Tura, in MACT Case No. 109/99. The said order is quoted below:

C.R. put up on call. Both the parties represented. Heard both the counsels on the issue of I.R.

Perused C.R. and all the documents contained therein. I am satisfied that I.R. may be granted.

Accordingly, an I.R. for an amount of Rs. 25,000/- is granted to the claimant to be paid by the O.P. (Insurance) within 30 days from the receipt of this order failing which an interest @ 9% shall be levied.

Date as before 5.6.2002 info all concerned.

2. Mr. S. Dutta, learned Counsel appearing for the Petitioner submits, that on the face of it, the said order dated 1.5.2002 is cryptic and does not disclose any reason for awarding the interim relief by way of awarding an amount of Rs. 25,000/- to the claimant. Referring to the provisions of Section 140 and 142 of the Motor Vehicles Act, 1988, Mr. Dutta submits that an interim relief can only be

awarded only in case of death and/or permanent disablement. In the instant case, the claimant sustained certain injuries arising out of the accident in question. According to the averments made in the claim petition, the claimant sustained injuries in the nature of fracture of ribs. In the impugned order dated 1.5.2002, there is no indication that such injury sustained by the claimant resulted in permanent disablement or comes within the definition of permanent disablement. In this connection, Mr. S. Dutta appearing for the Petitioner, referred to a decision of this Court as reported in 2002 (1) TAC 333 . As per the said decision, before coming to a conclusion relating to payment of compensation u/s 140, it is the bounden duty of the authority to assess as to whether the bodily injuries sustained by the claimant comes within the purview of permanent disablement or not. Mr. Dutta also referred to a decision of this Court in C.R. (P) No. 33(SH) 2001. The said civil revision petition was disposed of by this Court on 18.2.2002 under similar circumstances holding that the order awarding interim relief to the claimant therein was not a speaking order and the Tribunal failed to record reasons for grant of interim relief to the tune of Rs. 25,000/-. Referring to the decision of the Apex Court as reported in S.N. Mukherjee Vs. Union of India, this Court by the said order emphasised the need to record reasons.

3. In spite of service of notice on the opposite parties, there is no appearance on their behalf. This Court, by an order dated 16.6.2003, while noticing that the notices for service of notice on the Respondents were sent by registered post with AD ordered for deeming the service of notice on them. Today also, none appeared on behalf of the opposite parties to contest the civil revision petition.

4. I have considered the submissions made by the learned Counsel for the Petitioner and have perused the materials on record. I have also gone through the aforesaid decisions relied upon by the learned Counsel for the Petitioner.

5. Section 140 of the Motor Vehicles Act, while providing for interim relief has restricted the same only to the cases of death and permanent disablement. Permanent disablement has been highlighted in Section 142 of the said Act. In the instant case the claimant suffered fracture of ribs. There is no indication in the impugned order as to whether such injury sustained by the claimant resulted in any permanent disablement or not. On the face of it, the impugned order dated 1.5.2002 by which the interim relief has been granted in favour of the claimant is a cryptic one and devoid of any reasons. There is no discussion as to whether the claimant suffered from any permanent disablement entitling him to get interim relief or not.

6. In view of the above, I set aside the order dated 1.5.2002 passed in MACT Case No. 109/99 and the matter is remanded back to the said authority for a proper decision in the matter on merit after considering the materials available on record and hearing the parties.

7. On being asked, the learned Counsel for the Petitioner submits that in terms of the impugned order dated 1.5.2002, an amount of Rs. 15,000/- out of the

awarded amount of Rs. 25,000/- has already been paid to the claimant. Such payment of Rs. 15,000/- will be subject to the final order to be passed in the claim application pending before the MACT, Tura.

8. The revision petition is allowed to the extent indicated above. No order as to costs.