
(1991) 06 KAR CK 0004
In the Karnataka High Court
Case No : M.F.A. Fr. No. 4126 of 1991

Oriental Insurance Co. Ltd

APPELLANT

Vs

Smt. Veeramma and others

RESPONDENT

Date of Decision : 17-06-1991

Acts Referred:

Motor Vehicles Act, 1988 — Section 173, 173 (1)

Citation : (1992) ACJ 239 : (1993) 76 CompCas 358 : (1991) ILR (Kar) 2669 : (1991) 2 KarLJ 298

Hon'ble Judges : M. Rama Jois, J;B.N. Krishnan, J

Bench : Division Bench

Advocate : S.P. Shankar, for the Appellant;

Judgement

M. Rama Jois, J.—In this appeal presented u/s 173 of the Motor Vehicles Act, 1988, the following important questions arise for consideration :

"(1) Whether, in an appeal presented u/s 173 of the Motor Vehicles Act, 1988, an appellant presenting the appeal is required to deposit Rs. 25,000 or 50 per cent. of the amount awarded by the Tribunal, whichever less, only if directed by the High Court ? and

(2) How should the deposit be made ?"

2. Section 173 of the Act reads :

"173. Appeals. - (1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court :

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court :

Provided further that the High Court may entertain the appeal after expiry of the

said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees."

3. While sub-section (1) confers a right of appeal to the High Court on any person aggrieved by an award made by the Motor Accidents Claims Tribunal, the first proviso imposes a condition to the effect that such an appeal shall not be entertained, unless the appellant has deposited with it Rs. 25,000 or 50 per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court.

4. After this appeal was filed, the appeal papers were returned to learned counsel calling upon him to make the deposit in view of the proviso to section 173(1) of the Act. Learned counsel returned the papers stating that the question of depositing arises only if the High Court directs that such a deposit should be made. He further stated that, in a case where the insurance company pleads that it was not liable to pay the amount awarded in view of section 147 of the Act, it is not necessary for the insurance company to make the deposit.

5. In our opinion, both these submissions made by learned counsel are untenable. The language of the proviso to sub-section (1) of section 173 of the Act is peremptory in nature. It is well-settled rule of interpretation that when the wording of a statutory provision is couched in negative language, it is rarely directory. The section states that the appeal cannot be entertained by the High Court, unless the amount specified in the proviso is deposited with it. It is only regarding the manner of deposit of the amount that the section says that the amount shall be deposited as directed by the High Court.

6. When the proviso to section 173(1) requires that the amount should be deposited with the High Court, it means that the amount should be deposited with the Registrar of the High Court.

7. For the aforesaid reasons, our answer to the two questions set out first is that, in all the appeals presented u/s 173 of the Act by a person against an award made by the Tribunal in which he is directed to pay an amount to any claimant,

(i) the making of the deposit of Rs. 25,000 or 50 per cent. of the amount awarded whichever is less is a condition precedent for registering the appeal, and

(ii) such amount should be deposited with the Registrar of this court, either in cash or by demand draft, to be kept in judicial deposit.

8. In the circumstances, the appeal is directed to be registered after the appellant makes the deposit of the specified amount with the Registrar.