
(1991) 06 KAR CK 0047
In the Karnataka High Court

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Veeramma

RESPONDENT

Date of Decision : 17-06-1991

Acts Referred:

Motor Vehicles Act, 1988 — Section 173, 173 (1), 173 (2)

Citation : (1992) 1 ACC 12 : (1992) ACJ 239

Hon'ble Judges : Rama Jois, J;Krishnan, J

Bench : Division Bench

Judgement

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% of the amount awarded by the Tribunal, whichever is less, if only directed by the High Court?

AND

(2) How the deposit should 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 the 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 Tribunals, 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% of the amount so awarded, whichever is less, in the manner directed by the High Court.

4. After this appeal was filed, appeal papers were returned to the learned Counsel calling upon him to make the deposit in view of the papers to Section 173(1) of the Act. The learned Counsel returned the papers stating that the question of depositing arises if only 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 the learned Counsel are untenable. The language of the proviso to Sub-section (1) of the 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 a 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 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 Register 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 claimant:

(i) Making of the deposit of Rs. 25,000/- or 50% of the amount awarded whichever is less in a condition precedent for registering the appeal, and

(ii) Such amount should be deposited with the Register of this Court, either in cash or by Demand Draft, to be kept 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.