
(1999) 02 PAT CK 0082
In the Patna High Court
Case No : M.A. No. 452 of 1998

Oriental Insurance Company Ltd.

APPELLANT

Vs

Chulchul Devi and Others

RESPONDENT

Date of Decision : 18-02-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 11
Motor Vehicles Act, 1988 — Section 140, 166, 173

Citation : (1999) 1 PLJR 747

Hon'ble Judges : G.S. Sharma, J

Bench : Single Bench

Advocate : Ashok Priyadarshi, for the Appellant; Rekha Prasad, for the Respondent

Judgement

G.S. Sharma, J.—Heard the parties and with their consent this appeal is disposed of under Order 41, Rule 11 of the Code of Civil Procedure. It is not in dispute that without filing any application u/s 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") simply an application u/s 140 of the Act was filed and was registered as Claim Case No. 76 of 1967 in the court of Second Additional District Judge, Patna and the impugned order and interim award dated 22.8.1998 was passed therein. In my view, there was no occasion to entertain an application u/s 140 of the Act in absence of any regular claim case u/s 166 of the Act having been filed by the claimants. The impugned order/award is, therefore, without jurisdiction and is set aside.

2. It is said that after passing of the impugned order a regular Claim Case u/s 166 of the Act has been filed. Obviously a claim case is to be registered thereon. If any such claim case is instituted the claimants are entitled to make a fresh application u/s 140 of the Act therein, which will be disposed of on its own merit. This appeal is accordingly, disposed of.

3. A sum of Rs. 12500/- deposited in this Court vide Challan No. 262 dated 16.10.1998 for the purpose of this appeal under proviso to Section 173 of the

Act is permitted to be withdrawn by the Appellants on proper verification and in accordance with law.