
(2008) 01 RAJ CK 0022

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 734 of 1999

Oriental Insurance Company Ltd.

APPELLANT

Vs

Dhanna Ram and Others

RESPONDENT

Date of Decision : 22-01-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2008) 1 WLN 541

Hon'ble Judges : Manak Mohta, J

Bench : Single Bench

Judgement

Manak Mohta, J.—The instant appeal has been preferred by the non claimant No. 3, Oriental Insurance Co. Limited against the Interim Award dt. 21.05.1999 passed by the Judge, Motor Accident Claims Tribunal, Bali Distt. Pali in Claim Case No. 2/1999, whereby the learned Tribunal has passed Interim Award u/s 140 of the M.V. Act on the basis of 'No Fault Liability' to the tune of Rs. 25,000/-.

2. The facts of the case, in brief, are that on 05.06.1998, the claimant Dhanna Ram was travelling in a Jeep bearing No. RJ-01T/0008. The jeep was being driven by Chandan Puri (Non-claimant No. 2) rashly and negligently met an accident near Dutharia village on Nadol-Somesher Road. Another Jeep bearing No. RSE 1845 was being driven by Saleem (Driver) rashly and negligently, hit the standing jeep No. RJ-01-T/0008, in which, the claimant was sitting, on account of which, his left leg was fractured, therefore, he filed a claim petition for compensation to the tune of Rs. 10,32,000/-.

3. After service of notices, the learned Tribunal passed the interim award u/s 140 of the M.V. Act on the basis of 'No Fault Liability' vide order dt. 21.05.1999 and directed the appellant-Oriental Insurance Company Limited to make payment of Rs. 25,000/- as an interim award to the injured-claimant. Being aggrieved by that, the appellant-Insurance Company preferred the appeal before this Court.

4. During the course of argument, the learned Counsel for the appellant nearly

stressed on the point that the concerned jeep No. RJ-01-T/0008 was insured with the appellant on 08.06.1998, therefore, the risk has been covered from that day. Admittedly, the accident took place on 05.06.1998, therefore, it was urged that the Insurance Company could not be made responsible for the payment of interim award. The learned Tribunal has not considered this aspect of the case before passing the order of interim award. The learned Counsel for the appellant also placed reliance on the judgment given in the case of National Insurance Co. Ltd. Vs. Smt. Sobina Iakai and Others, and prayed that the impugned order interim award passed against the appellant may be quashed and set aside and the appeal may be accpeted.

5. On the other hand, the learned Counsel for the respondent states that at the stage of passing the order of interim award u/s 140 of the M.V. Act, it was not necessary for the learned Tribunal to go into the depth of the facts. The concerned jeep was injured with the appellant, therefore, the learned Tribunal has rightly passed the order of interim award that should be maintained and the appeal may be dismissed.

6. I have considered the rival contentions and have carefully gone through the order.

7. The learned Tribunal by way of impugned order dt. 21.05.1999 has directed the appellant to deposit Rs. 25,000/- for interim compensation but under the said order, it is made clear that how they came to reach at the conclusion that on the date of accident, the concerned Jeep No. RJ 01-T/0008 was insured with the appellant. In this way, the order is not speaking one. The learned Counsel for the appellant has stated that the jeep was insured on 08.06.1998 at 7.00 PM i.e. Corroborated by the Cover Note of the Insurance Policy. Thus, the contentions raised by the appellant are sustainable and the impugned order is liable to be quashed. In this reference, the authority of the Apex Court cited by the appellant in the case of National Insurance Co. Ltd. v. Sobina Lakai and Ors. (Supra). The same type of controversy was there and in that case, the policy was renewed on the same day after occurring of the accident. In that case, liability of the Insurance Company was not upheld. This authority also supports the conclusion. In these facts and circumstances of the case, it is found fit to remand back this case for consideration in accordance with law. It is also made clear that the appellant has deposited 50% of the interim award by the direction of the learned Tribunal that will be subjected to the decision on the interim compensation.

8. In the result, the appeal is partly allowed and the impugned order dt. 21.05.1999 is quashed and set-aside and the case is remanded back for afresh hearing on the point on interim compensation. The learned Tribunal will hear the matter expeditiously and will not be influenced by any observation. No order as to costs.