
(2000) 09 PAT CK 0044
In the Patna High Court
Case No : M.A. No. 501 of 1999

Parmada Devi

APPELLANT

Vs

Bishwanath Singh and Others

RESPONDENT

Date of Decision : 01-09-2000

Acts Referred:

Employees Compensation Act, 1923 — Section 30, 31
Motor Vehicles Act, 1988 — Section 167, 174

Citation : (2001) ACJ 1365 : (2001) 1 PLJR 131

Hon'ble Judges : S.K. Chattopadhyaya, J

Bench : Single Bench

Advocate : Shivajee Pandey, for the Appellant; A.P. Jittu, for the Respondent

Judgement

S.K. Chattopadhyaya, J.—This appeal has been placed under the heading "for orders" with the notes of the Stamp Reporter along with the order of the learned Registrar General dated 26.6.2000.

2. The appellant has filed the instant appeal u/s 30 of the Workmen's Compensation Act (hereinafter referred to as "the Compensation Act") being aggrieved by the order dated 29.7.99 passed by the Deputy Labour Commissioner-cum-Commissioner under the Act. A court fee stamp of Rs. 15 was affixed on the memorandum of appeal but the Stamp Reporter raised an objection by pointing out that the appellant is required to pay additional court fee of Rs. 235. The matter was agitated before the learned Registrar General on 7.12.99 and the Stamp Reporter was directed to report again in view of the submissions made on behalf of the appellant on the basis of a decision of this court. After making further report, the matter was again placed before the Lawazima Board on 26.6.2000 and the learned Registrar General endorsed the notes of the Stamp Reporter requiring the appellant to pay additional court fee of Rs. 235.

3. Mr. Pandey, learned counsel for the appellant, relying on a decision of this court in *New India Assurance Co. Ltd. v. Renu Devi* 1999 (2) PLJR 640, has

contended that when an aggrieved claimant moves this court in appeal under the provisions of Motor Vehicles Act he is required to pay a fixed court fee of Rs. 15 and, as such, in the instant appeal when the aggrieved claimant, who got an adverse order from the authority under the Compensation Act challenges the said order before this court in appeal he cannot be asked to deposit the court fee stamp of more than Rs. 15. Elaborating, Mr. Pandey submits that the Stamp Reporter has misinterpreted the word "award" mentioned in the Motor Vehicles Act and the word "order" mentioned in the Compensation Act and, as such, has given a note that the appeal filed u/s 30 of the Compensation Act is against the impugned order and not against an award.

4. Mr. Jittu, learned Standing Counsel No. 2, fairly submits that only because a claimant has approached the authority under the Compensation Act instead of the Tribunal under the Motor Vehicles Act he should not be directed to pay more court fee than the person who moved this court in appeal against an award passed by the Claims Tribunal under similar circumstances. But with reference to Bihar Court Fees (Amendment) Act, 1995, the learned counsel submits that the appellant in the instant appeal is required to pay court fee of Rs. 250 and not the fixed court fee of Rs. 15.

5. In the case of *New India Assurance Co. Ltd. v. Renu Devi* 1999 (2) PLJR 640, question arose as to whether the appellant is required to pay court fee stamp of Rs. 15 or Rs. 250 when an appeal is preferred against an award of the Claims Tribunal. This court after considering the amended provisions of Court Fees Act has come to the conclusion that in memorandum of appeal arising out of an award of Motor Accidents Claims Tribunal the provision of Article 9 (Schedule 11) of the Bihar Court Fees (Amendment) Act, 1995 will apply and the court fee payable will be Rs. 15.

6. From a bare perusal of the provisions of Section 167 of the Motor Vehicles Act it is clear that a person is entitled to compensation either under the Motor Vehicles Act or under the Compensation Act but definitely not under both the Acts. This section of Motor Vehicles Act bars more than one claim but leaves the claimant to choose the forum. Whether he files the claim before the Motor Accidents Claims Tribunal or before the Commissioner under the Compensation Act will depend on his volition. In a given case if in one and similar accident two persons sustain bodily injuries they can claim for compensation either under the Motor Vehicles Act or upon the Compensation Act. But if one of them chooses to file his claim before the Motor Accidents Claims Tribunal under the Motor Vehicles Act and gets an adverse order, he can move this court in appeal by paying court fee stamp of Rs. 15. On the other hand, if another injured person prefers his claim for compensation under the Compensation Act he has to impugn the adverse order in appeal by paying Rs. 250 as court fee. In my view, this will be an anomalous position which does not stand to reason. Secondly, u/s 174 of the Motor Vehicles Act the amount under an award can be recovered as arrear of land revenue and on an application made to the Claims Tribunal by the persons

entitled to the awarded amount, a certificate for the amount shall be issued to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue. Similarly u/s 31 of the Compensation Act any amount payable to any person under this Act can also be recovered by the Commissioner as an arrear of land revenue and the Commissioner shall be deemed to be a public officer for such purpose. From the above analysis it is clear that the awarded amount under the Motor Vehicles Act is recoverable as an arrear of land revenue and similarly the amount under the order of the Commissioner under the Compensation Act can also be recovered as land revenue.

7. Article 9 of the Bihar Court Fees (Amendment) Act, 1995 reads as follows:

9. Memorandum of (a) To any civil court other than a High Court or to any Revenue appeal when the Court or Executive Officer other than the High Court or appeal is not from Chief Controlling Revenue or Executive Authority. a decree or an Rs. 5.00 order having the (b) To a High Court or Chief Commissioner or other force of a decree Chief Controlling Executive or Revenue Authority. and its presented. Rs. 15.00

Interpreting this Article in relation to award under the Motor Vehicles Act this court has held in *New India Assurance Co. Ltd. v. Renu Devi* 1999 (2) PLJR 640, that "it is true that the amount of compensation awarded by the Claims Tribunal is recoverable as a land revenue but that by itself would not make the award of the Tribunal an order having the force of a decree". Similarly, in my view, though the "order" for the payment of compensation passed by the Commissioner under the Compensation Act may be recoverable as land revenue but that does not mean that the said order has the force of a decree. Thus only because instead of the word "award" as in the Motor Vehicles Act the word "order" has been mentioned in the Compensation Act, it cannot be said that an aggrieved person, when impugned the said order passed under the Compensation Act, is required to pay court fee of Rs. 250 instead of Rs. 15. It appears that this aspect of the matter has been overlooked by the taxing officer of this court.

8. In the result, I hold that the court fee stamp paid by the appellant in this appeal is sufficient and she is not required to pay additional court fee stamp of Rs. 235.

Let this case be listed for admission in due course.