

(2001) 04 PAT CK 0079
In the Patna High Court
Case No : M.A. No. 70 of 1984

Rajan Kumar Pandey

APPELLANT

Vs

Md. Mumtaj Mian

RESPONDENT

Date of Decision : 17-04-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2001) 3 PLJR 66

Hon'ble Judges : S.N. Pathak, J

Bench : Single Bench

Advocate : Badri Narayan Singh and Sujata Mukherjee, for the Appellant; R. Kumar, for the Respondent

Final Decision : Allowed

Judgement

S.N. Pathak, J.—This Miscellaneous appeal (sic) directed against the order dated (sic) January 1994 passed by the 4th (sic) Sessions Judge, Sasaram, Rohtas (sic) Vehicle Accident Claim Case No. 14 of 1993 whereby the Respondent of this Miscellaneous appeal was allowed interim compensation of Rs. 25,000/- (twenty thousand) u/s 140 of the motor Vehicles Act.

2. The Appellant's lawyer submitted re me that the alleged accident, al-(sic) caused by the Appellant's bus was denied. As a matter of fact, the Respondent's son died on account of accident caused by the tractor in which he travelling. Since the accident by the Plant's bus was denied, it was not (sic) on the part of the lower court to (sic) interim relief. Of course, the interim relief can be granted without any findings" (sic) any negligence or fault on the part of vehicle driver or its owner causing the accident; but when the accident itself (sic) denied, no interim compensation can be awarded.

3. In spite of service of notice, the Respondent did not appear. Hence, the appeal was heard and the Appellant's (sic) addressed this Court.

4. Of course, interim relief u/s 140 of (sic) M.V. Act can be granted on the basis

(sic) fault liability but the moot question (sic) whether this relief can be granted when (sic) itself is denied by the owner of (sic) concerned vehicle, which allegedly (sic) the concerned accident in which Respondent or any claimant's relative was (sic) I am of the opinion that, when an (sic) is denied, no interim relief can not be granted without any (sic)/material proving the alleged ac-(sic) by the owner of the concerned (sic). I think, the impugned order was (sic) in haste and without proper (sic) of judicial mind. Hence, it cannot (sic) allowed to stand.

5. In the result, this appeal is al-(SIC) and the impugned order is set aside. The Respondent is free to lead evidence in the lower court regarding his claim and upon proving the alleged accident by the bus of the Appellant. He will be free to seek interim relief before final adjudication of the claim of the trial court, in the instant case--the tribunal.