
(1995) 08 KL CK 0042
In the High Court Of Kerala

Ramachandran Nair

APPELLANT

Vs

Vimala

RESPONDENT

Date of Decision : 18-08-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 141

Citation : (1997) 2 ACC 634

Hon'ble Judges : K.T. Thomas, J;K.S. Radhakrishnan, J

Bench : Division Bench

Judgement

K.T. Thomas, J.—Appellant is the registered owner of an auto rickshaw bearing No. KCT 714. An accident occurred on 26.3.1993 involving the said autorickshaw in which husband of first respondent (hereinafter referred to as "the deceased") died. Legal heirs of the deceased made a claim for compensation before the Motor Accidents Claims Tribunal ("Claims Tribunal" for short). They also moved application for interim award u/s 140 of the Motor Vehicles Act, 1988 (for short "the Act"). As per the impugned order Claims Tribunal directed the appellant to pay Rs. 25,000/- as interim award.

2. learned Counsel contends that the appellant is only the registered owner of the auto rickshaw and he is not its real owner and hence, he cannot be mulcted with the "no fault liability". It is for the appellant to establish that the real owner of the vehicle was someone else on the date of accident. It is appellant's obligation to get that person impleaded as a party in the proceedings. He has not done it so far. Then the question whether the Claims Tribunal should have waited till the establishment of that fact for passing the interim award. One of the mandates in Section 141 of the Act is that the claim u/s 140 shall be disposed of as expeditiously as possible. Sub-section (2) of Section 141 reads thus:

141. (2) A claim for compensation u/s 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement u/s 140 and also in pursuance of any right on the principle of fault,

the claim for compensation u/s 140 shall be disposed of as aforesaid in the first place.

3. Section 141 corresponds to Section 92-B(2) of the old motor Vehicles Act, 1939. A Division Bench of this Court has urged the need for showing urgency in dealing with claims under no fault liability (vide National Insurance Co. Ltd. Vs. K. Savithri and Others and Lalitha and Others, The following passage in that decision is quite pertinent in this context:

...If the Claims Tribunal passed the award u/s 92-A only after deciding the contention that the policy became invalid due to violation of the condition in the policy, the urgency and expedition envisaged in Section 92-A are negated and the intention of the legislature superseded. All endeavours should be made to give the relief with as much promptitude and speed as the legislature manifested its intention in express terms.

The Claims Tribunal, if the dispute is limited to that contention, is not obliged to go the whole hog before passing the interim award u/s 92-A.

(5) By incorporating Chapter VII-A in the Act, Parliament expressed its intent that every victim of a motor accident if he sustains a permanent disability and the legal representatives of a victim who died in the motor accident, must be compensated with money, with as much promptitude as possible....

4. The very purpose of granting an interim award as provided in Section 140 would be defeated if Claims Tribunal was to enter into a protracted proceeding to come to the conclusion whether appellant was the real owner or not. That would normally be possible only when Claims Tribunal passes final award.

5. We make it clear that the interim award would be subject to the right of the appellant to establish that real owner of the vehicle is somebody else. If such other person is proved to be the real owner and if he is a party to the proceedings the Claims Tribunal shall pass such directions as are necessary to enable the appellant to realise from him the amount which he is obliged to pay under the impugned interim award. We dismiss this appeal without prejudice to the aforesaid right of the appellant.