
(1996) 10 PAT CK 0007

In the Patna High Court

Case No : Appeal form Original Order No. 438 of 1995

Ramakant Jha @ Ghoghal Jha

APPELLANT

Vs

Raja Ram Yadav and Others

RESPONDENT

Date of Decision : 16-10-1996

Acts Referred:

Bihar Motor Vehicles Rules, 1992 — Rule 227(2), 240(2), 246, 246(2)
Motor Vehicles Act, 1988 — Section 140, 166, 168

Citation : (1997) 2 PLJR 184

Hon'ble Judges : Ravi Nandan Sahay, J

Bench : Single Bench

Advocate : Uday Bhanu Roy and Ambrish Kr. Jha, for the Appellant; A.C. Jha, for Respondents No. 1 and 2 and Ram Chandra Lal Das, for the Respondent

Final Decision : Allowed

Judgement

Ravi Nandan Sahay, J.—The Appellant was claimant in Claim Case No. 52 of 1993. Before the Additional Claims Tribunal, Munger the Appellant filed an application u/s 140 of the Motor Vehicle Act for grant of interim compensation, which should have been allowed as a matter of course but the Insurer of the offending tractor objected to grant of interim compensation on certain untenable technical grounds which found favour with the Tribunal and consequently the application for interim compensation was rejected.

2. It is indeed unfortunate and surprising that the Tribunal (sic) in utter disregard of the law. Proceeding u/s 140 of the M.V. Act is a summary proceeding and the moment it is either admitted or proved that the vehicle of the owner was involved in the accident and that the vehicle was insured, the tribunal will make an award u/s 140 of the M.V. Act and will require the Insurance Company to pay the amount to the claimant forthwith, and thereafter he is required to consider other objections raised by the owner and Insurance Company.

3. In determining the question of compensation u/s 140 the following facts alone have to be proved:

- (i) that a vehicle was involved in an accident,
- (ii) that the victim received injuries in the accident as a result of which he either died or was permanently disabled,
- (iii) that the person against whom the claim was made was the owner or driver of the vehicle, and
- (iv) that the vehicle was insured with a particular Insurance Company.

4. In *New India Assurance Co. Ltd. Vs. Minguel Correia and Others*, , it has been held that the defences and objections raised by the Insurance Company are to be heard at the stage of the hearing of the main petition u/s 168.

5. In *National Insurance Co. Ltd. v. Surjit Singh* 1988 (2) ACJ 863, it has been held that if a detailed enquiry is made by the Tribunal even at the stage of Section 140, it would frustrate the very object for which Section 140 was enacted. The Court has duty to promote the intention of the legislature and not to frustrate it particularly while considering a beneficial legislation.

6. Coming to the facts of the case, the Insurance Company raised, inter alia, following objections before the Tribunal:

(i) That the claimant has not paid the required Court fee as provided under Rule 227(2) and Rule 246 of the Motor Vehicle Rules, 1992 and on this score entire application for compensation including application u/s 140 of the M.V. Act is fit to be dismissed.

(ii) That in absence of required Court fee the application for compensation either u/s 166 and 140 of the M.V. Act is not maintainable.

(iii) That the application for compensation u/s 140 M.V. Act is neither affidavited nor verified by the claimant and hence the application is not maintainable.

(iv) That the claimant has not produced the heir ship certificate in the instant case as provided under Rule 240(2) of the Bihar Motor Vehicle Rules, 1992 and on this score the application for compensation u/s 140 of the M.V. Act is not maintainable.

(v) That the claimant has suppressed the other heirs of the deceased in his application for compensation and on this score also the application for compensation is fit to be dismissed.

7. The Tribunal held that the filing of the heirship certificate was mandatory in view of Rule 246(2) of the Bihar Motor Vehicle Rules and the claim was, therefore, summarily dismissed without giving an opportunity to the Appellant to produce heirship certificate etc.

8. I have no doubt that the order of the Tribunal is extremely ridiculous and unsustainable. This appeal is, therefore, allowed, the order of the Tribunal is set aside and the claimant is granted interim compensation of Rs. 25,000/- with

interest at the rate of 12 per cent per annum from the date of filing of the application. The Appellant is also entitled to cost assessed at Rs. 500/-.