

(2000) 10 PAT CK 0034

In the Patna High Court

Case No : Appeal From Original Order No. 6 of 1993

Rambilas Singh and Another

APPELLANT

Vs

Smt. Bimli Devi and Another

RESPONDENT

Date of Decision : 24-10-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 156, 166, 166(3)

Citation : (2001) 1 PLJR 709

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : Dinesh Kumar Singh, for the Appellant; Ambrish Kumar Jha, for Respondents 1 to 5, for the Respondent

Judgement

Gurusharan Sharma, J.—In a motor accident, on 13.6.1990, one Ram Parekhi Ram lost his life.

2. On 26.1.1992, widow and four minor children of the deceased, filed Claim Case No. 11 of 1992, u/s 156 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act")

3. In the said case, on 15.7.1992, a separate petition, u/s 140 of the Act, was filed for grant of interim compensation.

4. On behalf of owner and driver of the Truck (B.P.P-5194), which was involved in the accident, who were made opposite parties in the case, an objection was raised that the claim case itself was barred by time u/s 166(3) of the Act.

5. By impugned order dated 13.8.1992, the Tribunal rejected the objection and held that even if main application u/s 166 was barred by time, application u/s 140 of the Act was not barred and directed the owner of the truck to pay interim compensation of Rs. 25000/- to the claimants.

6. At the relevant time, as provided u/s 166(3) of the Act, limitation for filing claim case was six months from the date of accident and Tribunal had power to

condone the delay in filing claim case, in appropriate cases, if it was filed upto twelve months, from the date of accident and not beyond that. The present claim case was admittedly filed after 19 1/2 months from the date of accident and it was, therefore, barred by time and tribunal had no power to condone the said delay.

7. It is true that an application u/s 140 is to be treated and decided separately and independent of the main application, u/s 166 of the Act, and there is no limitation prescribed for making such application, but question of interim compensation arises only when a regular case for compensation has duly been filed, u/s 166 of the Act Section 140 application is an interlocutory one, so no limitation has been prescribed therefor. When no case for compensation under the Act existed in the eye of law, question of interim compensation did not arise.

8. The present claim case, filed" u/s 166 was admittedly barred, by time and tribunal had no power to con done the delay. So, in my opinion, there, was no occasion for entertaining an interlocutory application u/s 140 of the Act and granting interim compensation payable by owner of the vehicle to the claimants.

9. I, therefore, set aside the impugned order and interim award" and allow this appeal. However, there shall be no order as to costs.