

(1997) 09 PAT CK 0075

In the Patna High Court

Case No : Appeal From Original Order No. 363 of 1994

Shankar Dayal Pandey and Another

APPELLANT

Vs

Ramesh Prasad

RESPONDENT

Date of Decision : 26-09-1997

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166

Citation : (1997) 2 BLJR 1814

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Gurusharan Sharma, J.—In a motor vehicle accident dated 8.12.1990, one Ranjit Kumar a police affected son of the sole respondent, Ramesh Prasad dashed and crushed by a tracker (CHK 2868) belonging to the appellants. Ranjit Kumar died in course of treatment.

2. The Motor Vehicle Claim Case No. 15 of 1991 was filed by father of the deceased, within statutory period, as provided u/s 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). However, a petition u/s 140 of the Act was filed on 16.12.1993 i.e., much after the expiry of the period of limitation, as provided u/s 166(3) of the Act.

3. By the impugned order and award the tribunal on the said petition asked the appellants-owner of the vehicle involved in the accident in question to pay a sum of Rs. 25,000/- to the claimants by way of interim compensation.

4. In Oriental Insurance Co. Ltd. Vs. Mohiuddin Kureshi alias Md. Moya and Others , a Division Bench of this Court held that even for the purpose of filing an application u/s 140 of the Act, period of limitation provided for u/s 166 of the Act was applicable.

5. In the present case, it is not in dispute that the petition u/s 140 of the Act was

filed after expiry of 12 months from date of the accident in question, which was the maximum period of limitation provided under proviso to Sub-section (3) of Section 166 of the Act and the tribunal had no jurisdiction to condone the said delay under the Act.

6. In the aforesaid premises of facts of the present case and the law in this regard already settled by a Division Bench of this Court. I have no option but to set aside the impugned order and the interim award.

7. In the result, the appeal is allowed.