
(2011) 04 AHC CK 0266

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 19264 of 2011

Surendra Kumar Sharma

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 02-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 8 RCR(Civil) 469

Hon'ble Judges : S.P.Mehrotra, J and Rajesh Chandra, J

Final Decision : Dismissed

Judgement

Rajesh Chandra, J.—The present Writ Petition has been filed inter alia praying for quashing the Recovery Citation dated 10.3.2011 (Annexure 2 to the Writ Petition).

2. It appears that an accident occurred involving the vehicle of which the petitioner was the owner. A Claim Petition being Motor Accident Claim Tribunal No. 251 of 2005 was filed by Smt. Savita (Respondent No.4) against the petitioner wherein Award dated 18.10.2010 was given by the M.A.C.T. awarding compensation against the petitioner. The petitioner has filed First Appeal From Order being Defective No. 420 of 2011 along with delay condonation Application. As per the averments made in the Writ Petition, Notices have been issued on the delay condonation Application.

3. It further appears, that in the meantime proceedings for execution of the award given by the M.A.C.T., have been initiated. A recovery Citation dated 10.3.2011 has been issued against the petitioner, wherein the loan to be recovered from the petitioner has been shown as Rs.5,82,060.00 plus other charges.

4. The petitioner has filed the present Writ Petition seeking relief as mentioned above,.

5. We have heard Sri S.K.Upadhyaya, learned counsel for the petitioner and

perused the averments made in the Writ Petition.

6. The petitioner is already perusing his remedy of Appeal against the Award given by the M.A.C.T. In the circumstances, we are not inclined to exercise our Writ Jurisdiction under Article 226 of the Constitution of India. The Writ Petition is liable to be dismissed on the ground that the petitioner is availing alternative remedy of Appeal.

7. The Writ Petition is dismissed on the said ground.

8. This order will, however, not prejudice the rights of the petitioner in seeking appropriate remedy in the Appeal filed by him before this Court.