

(1999) 10 SHI CK 0007
In the High Court Of Himachal Pradesh
Case No : Civil Revision No. 112 of 1999

The National Insurance Co. Ltd.

APPELLANT

Vs

Mulkh Raj and Others

RESPONDENT

Date of Decision : 11-10-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Constitution of India, 1950 — Article 227
Motor Vehicles Act, 1988 — Section 140, 166, 173

Citation : (2000) 1 ShimLC 372

Hon'ble Judges : M.R. Verma, J

Bench : Single Bench

Advocate : Ashwani Sharma, for the Appellant; Ramakant Sharma, for the Respondent

Final Decision : Dismissed

Judgement

M.R. Verma, J.—The Petitioner has filed the present revision petition u/s 115 of the CPC read with Article 227 of the Constitution of India against the order dated January 12, 1999 passed by the Motor Accident Claims Tribunal (II), Sirmaur District at Nahan in M.A. No. 10-N/2 of 1999 in Main Petition No. 40-N/2 of 1998 whereby a sum Rs. 50,000/- has been awarded as interim compensation in lieu of "No Fault Liability" basis in favour of the Respondents.

2. The learned Counsel for the Respondents has raised preliminary objections about the maintainability of the present petition.

3. In case Indro Devi v. Hari Ram Malhotra and Ors. 1997 ACJ 716 a Division Bench of this Court has held as follows:

19. Section 173 of the Motor Vehicles Act provides for an appeal against the award of the Tribunal. The term "award" has not been defined in the Motor Vehicles Act. However, the fact cannot be lost sight of that the claim for compensation whether u/s 140, Motor Vehicles Act or u/s 166 of the Motor

Vehicles Act has to be considered and determined by the Tribunal. No distinction can be made in the determination of compensation by the Tribunal between Section 140 and Section 166 of the Motor Vehicles Act. The authority concerned to decide the claims under both these Sections is the same. There would not be a correct distinction between the claim determined under the two sections of the same Act by considering the claim determined u/s 166 of the Act as an award and by not considering the claim determined u/s 140 of the Act as an award. Therefore, determination of the compensation u/s 140 of the Motor Vehicles Act would be an award for the purpose of appeal u/s 173 of the Act. In *Oriental Insurance Co. Ltd. v. Khem Chand* (supra), this Court was dealing with an appeal against the award made by the Tribunal u/s 140 of the Motor Vehicles Act, 1988.

4. In view of the above decision, the present Civil Revision against the interim award is not maintainable and is accordingly dismissed.