
(2007) 01 PAT CK 0065
In the Patna High Court
Case No : MJC No. 2704 of 2006

The New India Insurance Co. Ltd.

APPELLANT

Vs

Geeta Devi and Others

RESPONDENT

Date of Decision : 17-01-2007

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2007) PLJR 236

Hon'ble Judges : J.N. Bhatt, C.J

Bench : Single Bench

Advocate : Jagannath Singh, for the Appellant;

Judgement

Dr. J.N. Bhatt, C.J.—It is appears that probably some miscomprehension has converted into a practice, which needs to be corrected and rectified u/s 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act). It has been requested that the amount, which has been deposited as condition precedent in filing an appeal u/s 173 of the Act, be directed to be refunded as the matter has been dismissed. This submission is without any substance in view of the clear provision of Section 173 of the Act. Section 173 of the Act deals with appeal against the order of the Tribunal in case of an appeal being filed under the Act, which reads here-as-under:--

173. Appeal.--(1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty five thousand rupees or fifty percent of the amount so awarded, whichever is less, in the manner directed by the High Court:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented

by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than ten thousand rupees.

2. The right to file an appeal can very well be visualized from the provision of Section 173 of the Act. Right to file an appeal being aggrieved by an order of the Tribunal is not unconditional. In the first proviso to Section 173 it has been provided that no appeal by the person, who is required to pay in terms of such award, shall be entertained by the High Court unless he has deposited with it twenty five thousand rupees or fifty percent of the amount so awarded, whichever is less, in the manner directed by the High Court.

3. The second proviso to Section 173 makes further provision that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. The said proviso is not material for the purpose in question.

4. So far as the first proviso is concerned, it is a condition precedent that an appeal shall be presented and entertained on fulfilment of the condition of depositing of Rs. 25000/- as required by the proviso to Sub-section (1) of Section 173 of the Act. There is no provision that the amount should be refunded to the Insurance Company or the person, who is required to pay the amount of compensation on the matter being dismissed. There is a purpose and policy behind such a statutory provision incorporated in the Act, 1988.

5. There is no dispute about the fact that the insurance Company is saddled with the liability and is held accountable for payment of compensation awarded by the Tribunal. The amount has not been fully paid as per the award by the Tribunal in a petition arising out of the Motor Vehicles Act, 1988.

6. It is in this context, instead of refunding the amount, as requested, the proper course would be to direct the Registry to remit the amount of Rs. 25000/- to the Tribunal concerned for being disbursed to the petitioner towards satisfaction of the amount due and payable in terms of the award recorded by the Tribunal. With this observation, the application shall stand disposed of.