

**(2010) 08 AHC CK 0434**  
**In the Allahabad High Court**

The United India Insurance Co. Ltd.

APPELLANT

Vs

Additional District Judge, Court No. 5/ Motor Accident Claims  
Tribunal

RESPONDENT

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**Date of Decision :** 04-08-2010

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 140, 173

**Citation :** (2010) 5 AWC 4953

**Hon'ble Judges :** V.K. Shukla, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

V.K. Shukla, J.—In the present case, Rama Kant Pandey, driver of police squad jeep, died in motor accident, which is alleged to have been caused by Truck No. DIL 3447, whereupon the widow of late Rama Kant Pandey filed claim petition No. 599 of 1996, u/s 140 of the Motor Vehicles Act, claiming Rs. 5,00,000/- as compensation on account of death of her husband. The Claims Tribunal awarded a sum of Rs. 50,000/- as interim compensation along with interest of 12% per annum. A Cheque of Rs. 73,770/- had been deposited by the Insurance Company on 17.08.2000. Thereafter, claim petition was finally decided on 27.02.2004, awarding a sum of Rs. 3,31,000/- as compensation. The Insurance Company had been asked to pay the amount of compensation within one month. In case of default, claimants had been made entitled for interest at the rate of 8%. The amount of interim compensation of Rs. 50,000/- was also directed to be adjusted. Said award had been subject matter of challenge in F.A.F.O. No. 730 of 2004. Petitioner claims that a sum of Rs. 25,000/- has also been deposited in compliance of the mandatory provisions u/s 173 of the Motor Vehicles Act. Petitioner has stated that Division Bench of this Court on 22.03.2004 passed conditional stay order, directing to deposit the entire amount and the claimants were made entitled to withdraw half of the amount without any security and rest half after furnishing security. The petitioner claims to have deposited a sum of Rs. 2,32,230/- before the Motor Accident Claims Tribunal on 26.03.2004. The

petitioner is contending that he has deposited entire amount of compensation i.e. Rs. 3,31,000/- (Rs. 73,770/- on 17.08.2000 as interim compensation + Rs. 25,000/- on 20.03.2004 u/s 173 of Motor Vehicles Act, 1988 + Rs. 2,32,230/- as final award on 26.03.2004), and thus has complied with the judgment of the Motor Accident Claims Tribunal as well as interim order accorded by this Court. Petitioner's contention is that in spite of the fact that entire amount has been deposited by the petitioner and no amount remained due against him, an application has been moved contending therein that the entire amount of compensation, as awarded by the Motor Accident Claims Tribunal, has not been paid. Thereafter, order was passed on 07.10.2008 for recovery. Thereafter, an application was moved by the Insurance Company on 14.10.2008, whereupon execution was stayed. The claimants filed objection and thereafter, order impugned has been passed, mentioning therein that a sum of Rs. 23,770/- is required to be paid to the claimants, as only Rs. 50,000/- was directed to be adjusted. At this juncture, present writ petition has been filed.

2. Sri Vipin Chandra Dixit, learned Counsel for the petitioner, contended with vehemence that in the present case direction contained in the order impugned that a sum of Rs. 23,770/- is yet to be paid, is totally arbitrary and unreasonable, as such the same deserves to be quashed.

3. Factual matrix of the case is that in the present case an award, awarding a sum of Rs. 3,31,000/- had been passed in favour of the claimants and the said amount was to be deposited within one month and in case of default, the claimants were made entitled to interest at the rate of 8%. The amount of Rs. 50,000/-, already paid as interim compensation, was also directed to be adjusted, but at no point of time while directing to adjust the amount of Rs. 50,000/- order was passed for adjustment of interest also, which was allowed pursuant to order dated 13.12.1999 by way of interim compensation. Petitioner's contention is that entire amount of award i.e. Rs. 3,31,000/- (Rs. 73,770/- on 17.08.2000 as interim compensation + Rs. 25,000/- on 20.03.2004 u/s 173 of Motor Vehicles Act, 1988 + Rs. 2,32,230/- as final award on 26.03.2004) has been deposited by the petitioner. In such a situation, petitioner submits that, thus, entire amount of compensation as per award has been made good. The Motor Accident Claims Tribunal has rightly considered the matter and found that a further sum of Rs. 23,770/- is yet to be paid for the simple reason that only a sum of Rs. 50,000/- paid by way of interim compensation, was directed to be adjusted, and the award at no place proceeded to mention for adjustment of interest amount also awarded on said sum of Rs. 50,000/- by way of interim compensation. Once in the original award no positive direction was made for adjustment of interest amount also awarded by way of interim compensation, then ipso fact, it cannot be said that the entire amount of compensation was deposited. In such a situation and in this background, opinion which has been formed by the Motor Accident Claims Tribunal, is correct opinion, and the same warrants no interference.

4. Consequently, present writ petition is dismissed.