
(2003) 07 PAT CK 0023
In the Patna High Court
Case No : M.A. No. 222 of 2002

United India Insurance Co. and Another APPELLANT
Vs
Sadhu Paswan and Others RESPONDENT

Date of Decision : 02-07-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 149(2), 170, 173

Citation : (2003) 3 PLJR 747

Hon'ble Judges : P.K. Deb, J

Bench : Single Bench

Advocate : Ashok Priyadarshi, for the Appellant; Shambhu Sharan Singh and Md. Gayasuddin Khan, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Deb, J.—This appeal has been preferred u/s 173 of the Motor Vehicles Act against the award of compensation in favour of the Respondents in Claim Case No. 32/98/69/97.

2. The compensation has been awarded to the tune of Rs. 4,10,000/-. At the very outset, maintainability of the appeal has been challenged as the appeal has been filed against the quantum of compensation alone. Such submissions regarding the maintainability of the appeal has been made on the basis of recent Judgments of the Apex Court.

3. Mr. Priyadarshi, learned Counsel appearing for and on behalf of the Appellants has submitted that it is true that unless permission is being taken u/s 170 of the Motor Vehicles Act the scope of the Insurance Company is limited to the provisions as enumerated u/s 149(2) of the Motor Vehicles Act. But he wants to make a slight difference to the effect that the challenge is not in respect of the quantum but in respect of the calculation alone and to this effect he has referred to Sushma Thomas's Case as reported in (2000) 1 S.C.C. 9. Even if the calculation is challenged it amounts to challenge of the quantum itself. In that

view, Apex Court judgment remains in vogue.

4. In that way, this Court had already decided on the point of maintainability the appeal in M.A. No. 76/2002 Branch Manager, National Insurance Company Ltd. Vs. Raj Banshi Ram and Others . The present appeal is totally covered by the decision given in the aforementioned appeal. In that view of the matter the present appeal is also dismissed as not maintainable. But there will be no order as to costs.