

(2011) 10 AHC CK 0133

In the Allahabad High Court

Case No : First Appeal From Order No. 379 of 1996

United India Insurance Co. Ltd.

APPELLANT

Vs

Hareshwar Singh and Others

RESPONDENT

Date of Decision : 12-10-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 140(2), 166

Citation : (2011) 10 ADJ 835

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Pankaj Mithal, J.—Heard Sri S.K. Mehrotra and Sri Archit Mehrotra on behalf of defendant-appellant and Sri Rajesh Kumar Mishra, holding brief of Sri Ranjeet Kumar Mishra for the claimant-respondents.

2. The appeal is directed against the interim award dated 14.2.1996 passed by the Motor Accident Claims Tribunal in MAC No. 53 of 1995.

3. The accident had taken place on 14.8.1994 and the claim petition was presented in 1995. By the impugned order dated 14.2.1996a sum of Rs. 25,000/- has been awarded u/s 140 of the Motor Vehicles Act, 1988 (hereinafter referred as the Act) on account of no fault liability subject to final adjudication of the claim u/s 166 of the Act.

4. t may be noted that the claim u/s 166 of the Act has not finally been adjudicated probably on account of the interim order operating in the present appeal.

5. The submission of Sri Mehrotra, learned counsel for the appellant is that the provision for award of Rs. 25,000/- u/s 140(2) of the Act was made by an amendment with effect from 14.11.1994 vide Act No. 54 of 1994 whereby the limit of no fault of liability in the case of permanent injury was enhanced from

Rs. 12,500/-to Rs. 25,000.

6. The accident had taken place on 14.8.1994 and therefore, the amended provision would not apply and as such the tribunal committed an error in awarding interim award of Rs. 25,000/-.

7. It is admitted position that initially in the case of permanent injury no fault liability was only to the extent of Rs. 12,500/-. It was increased to Rs. 25,000/- with effect from 14.11.1994.

8. The amendment is not retrospective in nature. The amended provision of Section 140(2) as such would not be applicable to an accident which had taken place earlier to the amendment i.e. 14.8.1994.

9. In Divisional Manager, United India Insurance Co. Ltd. v. Nagendra Sethi and others, 2010 (3) TAC 879 (Ori), his Lordship of the Orissa High Court while considering a similar controversy held that where an accident had taken place on 14.8.94 i.e. prior to the amendment, the amended provisions enforced with effect from 14.11.94 would not be applicable as they are not retrospective In nature.

10. Even the Apex Court in State of Punjab and Others Vs. Bhajan Kaur and Others, , laid down that amendment to Section 140 of the Act vide Act No. 54 of 1994 w.e.f. 14.11.1994 is not retrospective and would not applicable to accidents prior to said date.

11. In view of the aforesaid facts and circumstances, I am of the opinion that the Tribunal grossly erred in law in awarding interim compensation of Rs. 25,000/ - in case of permanent injury for an accident which took place on 1/1.8.1994. On the relevant date on account of no fault liability interim compensation to the extent of Rs. 12,500/- alone was admissible.

12. In view of above, the appeal is allowed. Interim award dated 14.2.1996 is modified and is confined to Rs. 12,500/- with further direction that the balance amount of Rs. 12,500/- which has been deposited pursuant to the interim order of this Court dated 21.5.1996 shall continue to remain deposited and would abide by the final decision of the claim petition.