
(2011) 07 BOM CK 0194
In the Bombay High Court
Case No : Writ Petition No. 2043 of 2011

Vijay

APPELLANT

Vs

Sukhdeorao and Another

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Maharashtra Motor Vehicles Act — Section 140, 166

Citation : (2012) 2 TAC 187

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

Bench : Single Bench

Advocate : S.S. Shingne, for the Appellant; S.N. Dhanagare, for the Respondent

Final Decision : Dismissed

Judgement

R.M. Savant, J.—Rule, with the consent of the parties, made returnable forthwith and heard. The above petition takes exception to the award of Lok Adalat, dated 16th December, 2006. The said award of the Lok Adalat is challenged on the ground that the claimant and the Insurance Company have mutually agreed to fasten the liability u/s 140 of the Maharashtra Motor Vehicles Rules, 1989 on the petitioner which is to the detriment of the petitioner. The facts in the above petition can be stated thus:

An order u/s 140 of the Motor Vehicles Act came to be passed against the petitioner/the original respondent No. 2 in the petition filed u/s 140 of Motor Vehicles Act, on 1st April, 2003. By the said order, the application filed by the claimant was allowed and the respondent No. 1 and the respondent No. 2 were ordered jointly and severally to pay the compensation of Rs. 50,000/- to the petitioner within 6 weeks from the date of the said order.

2. It appears that thereafter the Motor Accident Claim Petition No. 88/2002 came to be dismissed which resulted in filing of First Appeal No. 428/2005 by the claimants. The said First Appeal was placed before the Lok-Adalat, and a compromise was arrived at between the claimants and the Insurance Company.

The terms of compromise was reduced into writing and in terms thereof the Lok-Adalat passed an order dated 16th December, 2006. Clause-3 of the terms of the compromise at page No. 39 is relevant. It is the contention of the learned Counsel for the petitioner that the Insurance Company i.e. respondent No. 2 could not have compromised the first appeal without the petitioner having consented to the same, as the liability u/s 140 of the Motor Vehicles Act is of the Insurance Company in respect of the insured vehicle. The learned Counsel for the petitioner for the said purpose relied upon the judgment of a learned Single Judge of this Court in Rama Khade Vs. Sk. Sakir and Another, , wherein it has been held that, the driver of the vehicle cannot be directed to pay compensation u/s 140".

3. It is the contention of the learned Counsel for the respondent No. 2 that the liability of the petitioner has been fixed by the order 1st April, 2003, the said order being not challenged by the petitioner and MACP No. 88/2002 being dismissed in so far as the respondent No. 2, is concerned, the said argument that it is the liability of the respondent No. 2 to pay the amount u/s 140 of the Motor Vehicles Act is not available to the petitioner. It is only in the First Appeal filed by the claimants that the matter was placed before the Lok-Adalat wherein the Insurance Company i.e. respondent No. 2 herein agreed to pay the amount of Rs. 25000/- in full and final settlement of the claim u/s 166 of the said Act. The parties agreed that opportunity is granted to the claimants to execute the order passed u/s 140 of the Act against the petitioner. It was open for the respondent No. 2. Insurance Company and the claimants to arrive at a compromise to the extent which has been recorded in the terms of the compromise, dated 16th December, 2006. In view of the fact that petitioner did not challenge the order dated 1st April, 2003 the same has become final and binding. Though the order under challenge is the one passed by the Lok-Adalat in the year 2006, however, considering the fact that the order is passed under the Motor Vehicles Act, this Court considered the matter on merits.

4. In that view of the matter, no interference is called for in the writ jurisdiction. The writ petition is accordingly dismissed. Rule discharged. No costs.