

Kanchan Mahato Vs Most. Champa Devi

Court: Patna High Court

Date of Decision: Aug. 7, 2014

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 115
Motor Vehicles Act, 1988 â€” Section 140, 173

Citation: (2014) 4 ACC 941 : (2015) ACJ 719 : AIR 2014 Patna 215 : (2014) 3 PLJR 749 : (2015) 1 RCR(Civil) 273

Hon'ble Judges: Rekha M. Doshit, C.J; Jayanandan Singh, J; Ashwani Kumar Singh, J

Bench: Full Bench

Advocate: Shailendra Kumar Sinha and Raj Kumar, Advocate for the Appellant

Judgement

@JUDGMENTTAG-ORDER

Rekha M. Doshit, C.J.

This Appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the owner of the offending

vehicle, a tractor-trailer, against the order dated 29th September, 2001 made by the Motor Vehicle Accident Claims Tribunal, Nalanda at

Biharsharif in Claim Case No. 132 of 1997 for interim compensation under section 140 of the 1988 Act. Under order dated 29th July, 2003, the

matter has been referred to the Full Bench for authoritative pronouncement on the issue whether against the order of interim compensation made

under Section 140 of the 1988 Act, the appeal shall lie under Section 173 of the Motor Vehicles Act or can such order be challenged in a revision

application under Section 115 CPC.

2. The matter is no more res integra. The Hon"ble Supreme Court has, in the matter of Smt. Yallwwa and Others Vs. National Insurance Co. Ltd.

and Another, , categorically held ""an order of the Tribunal awarding compensation under Section 140 of the Act is appealable under Section 173

as it amounts to an award under Section 173"". The above judgment is followed in the matter of United India Insurance Company Limited Vs.

Serjerao and Others, .

3. The matter having thus been put at rest, we hold that the present Appeal against the impugned order dated 29th September, 2001 made by the

Motor Vehicle Accident Claims Tribunal, Nalanda at Biharsharif in Claim Case No. 132 of 1997 is maintainable. In view of the aforesaid binding

precedents, judgment in the matter of Harihar Singh Vs. Nawal Kishore Chauhan is affirmed. The contrary view, if any, is expressly overruled.

4. Ordinarily Appeal should be remitted to the Bench of the learned Single Judge for hearing on merits. However, in the present case, learned

Advocate Mr. Shailendra Kumar Sinha has appeared for the appellants. He has submitted that he has no instructions whether the aforesaid Claim

Case No. 132 of 1997 has finally been decided by the Tribunal.

5. The matter being 17 years old, we presume that Claim Case No. 132 of 1997 has been finally decided. We accordingly dispose of this Appeal.

Stay, if any, stands vacated.