

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 3641 OF 2020

(Arising out of S.L.P.(Civil)No.12041 of 2020)

NEW INDIA ASSURANCE CO. LTD. ...Appellant

Vs.

ROOPA DEVI & ORS. ...Respondents

O R D E R

Leave granted.

The impugned order dated 10.07.2020 is one of only admission and notice i.e. the respondent is yet to be served or heard. By such an *ad interim ex parte* order, the appellant Insurance Company has been directed to deposit the entire awarded amount before the Tribunal while staying the execution proceedings. Out of the entire deposited amount, 50 per cent has been permitted to be withdrawn by the claimant and 50 per cent to be invested in a fixed deposit account carrying maximum interest for a minimum period of three years and the interest on it to be paid to the claimants.

The contention of learned counsel for the appellant is that the vehicle being a tractor has been introduced belatedly to

somehow make out a case of insurance claim and it is really a fraudulent case.

Learned counsel for the appellant has drawn our attention to Section 173 of the Motor Vehicles Act, 1988 which reads as under:

"173. Appeals-

(1) Subject to the provisions of sub-section (2) any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court: Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty-five thousand rupees or fifty per cent of the amount so awarded, whichever is less, in the manner directed by the High Court: Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees."

The legal provision, thus, stipulates that to entertain an appeal the appellant should deposit at least twenty five thousand rupees or 50 per cent of the awarded amount, whichever is less, in the manner to be directed by the High Court.

A reading of the aforesaid would suggest that that is a pre-requisite for entertaining the appeal but it would not amount to affecting the power of the High Court to put a more stringent condition as a part of orders for admission or notice.

Learned counsel in this behalf has also drawn our attention to two orders passed by this Court - *Uttar Pradesh State Transport Corporation v. Compotar* - (2008) 4 SCR 620 and an order in *Manoj Gupta v. Haseen Bano & Ors.*- Civil Appeal No.4960/2019 dated 08.05.2019. The crux of the issue raised in these proceedings are also that the High Court should not be passing a non-reasoned order in such matters and it should take note of the provisions of Section 173 of the Motor Vehicles Act mentioned aforesaid.

On consideration of the aforesaid aspects, we are of the view that the *ad interim* order needs to be modified and an appropriate order may be passed after hearing the respondents post notice.

As an interim measure, the order dated 10.07.2020 shall be substituted with a direction for the appellant to deposit 50 per cent of the amount but that amount is not to be released to the respondents but to be invested in an FDR for 91 days initially to be kept renewed and the interest to be paid to the claimants. We may clarify that this is only an *ad interim* arrangement being made by us and it is open to the High Court to make an appropriate arrangement in modification of this on hearing both the counsel for the appellant and the learned counsel for the respondents.

The appeal accordingly stands disposed of in the aforesaid terms.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[HRISHIKESH ROY]

New Delhi;
November 05, 2020.

ITEM NO.8 Court 6 (Video Conferencing) SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 12041/2020

(Arising out of impugned final judgment and order dated 10-07-2020 in FAFOD No. 329/2020 passed by the High Court of Judicature at Allahabad)

NEW INDIA ASSURANCE CO. LTD. Petitioner(s)

VERSUS

ROOPA DEVI & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.102974/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 05-11-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. C.K.Gola, Adv.
 Mr. Abhishek Gola, Adv.
 Mr. Viresh B. Saharya, AOR
 Mr. Aksht Agarwal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application shall also stand disposed of.

(ASHA SUNDRIYAL)
AR-cum-PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

(Signed order is placed on the file.)