

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4126 /2020

[@SLP [C] NO.15676 /2020]

[@ Diary No. 23622/2020]

CHOLAMANDALAM MS GENERAL INSURANCE CO. LTD. Appellant(s)

VERSUS

WASIM ANSARI ALIAS NASEEM ANSARI & ANR. Respondent(s)

O R D E R

Delay condoned.

Leave granted.

The impugned order is only an interim order and we would normally loath to interfere with any interim order. However, what persuades us in this case is the allegation that in respect of the same owner of the truck, in three other cases similar kinds of accidents are alleged with a stationary vehicle. There has been absence of criminal investigation stated in all the other cases also. This raises some doubts about the claim. The contention of learned counsel for the appellant is that it is really a fraudulent case.

The impugned order dated 11.12.2020 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 Out of the entire deposited amount, 50 per cent has been permitted to be withdrawn by the claimant and 50 per cent to be invested in a fixed deposit account carrying maximum interest for a minimum period of three years and the interest on it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.

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 11.12.2019 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.
[DINESH MAHESHWARI]

..... J.
[HRISHIKESH ROY]

NEW DELHI;
DECEMBER 17, 2020.

