

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 568 of 1993

Appellant :- Surnam Singh

Respondent :- N.I.C.

Counsel for Appellant :- R.K. Porwal

Counsel for Respondent :- Syed Khursheed Anwar Alvi, Ashok Kumar Srivastava

Hon'ble Saral Srivastava, J.

1. Heard Sri R.K. Porwal, learned counsel for the appellant and Sri A.K. Srivastava, learned counsel for the respondent.

2. The present appeal has been preferred by the appellant challenging the award dated 30.01.1993 passed by the Motor Accident Claims Tribunal/Special Judge (E.C. Act), Etawah, (hereinafter referred to as 'Tribunal') in M.A.C.P. No.235 of 1990 whereby the Tribunal has awarded Rs.1,00,000/- along with 12% interest as compensation to the claimants.

3. A preliminary objection has been raised by Sri A.K. Srivastava, learned counsel for the respondent that appeal of the appellant is not maintainable inasmuch as pre-condition for maintainability of appeal as provided in the first proviso to Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act, 1988') has not been complied with.

4. To the said objection, Sri R.K. Porwal, learned counsel for the appellant submits that the appellant to meet the requirements of first proviso to Section 173(1) of the Act, 1988 has deposited statutory deposit of Rs.25,000/- by Bank Draft No.000861/000016000/16 dated 26.04.1993 with the Tribunal and receipt issued by the Tribunal is also enclosed with the memo of appeal.

5. Be that as it may, the requirement of statutory deposit of Rs.25,000/- provided under the first proviso to Section 173(1) of the Act, 1988 is to deposit the statutory amount in the manner directed by the High Court. The first proviso of Section 173(1) 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:"

6. When the proviso is specific and clear and provides that Rs.25,000/- for maintainability of the appeal is to be deposited in the manner as directed by the High Court, then it is obvious that said amount should have been deposited by the appellant before the High Court.

7. It is pertinent to note that said amount could have been deposited by the appellant with the Tribunal if there was a direction to this effect by the High Court whereas there was no such direction by the High Court in the instant case permitting the appellant to make statutory deposit with the Tribunal. This Court cannot ascertain as to whether statutory deposit is made for filing the appeal or has been made for as part of payment of compensation.

8. Since, appellant has not complied with the statutory requirement of Rs.25,000/- in the manner as provided in the first proviso to Section 173 of the Act, 1988, therefore, this appeal is not maintainable,

9. Accordingly, the appeal lacks merit and is hereby ***dismissed*** with no order as to costs.

Order Date :- 12.10.2023

Sattiyarth