

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.6131 of 2016 (O&M)

Date of Decision.19.09.2016

Bharti AXA General Insurance Company Ltd.

.....Petitioner

Vs.

Sahab Singh and others

.....Respondents

Present: Mr. Rajbir Singh, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

The insurance company-Bharti AXA General Insurance Company is aggrieved of the impugned Award passed by the Motor Accident Claims Tribunal whereby in Case No.16 of 2015 filed under Section 166 of the Motor Vehicles Act, compensation of ₹3211/- along with interest @9% from the date of filing of the claim petition till realization has been awarded.

Mr. Rajbir Singh, learned counsel appearing for the petitioner-insurance company submits that the owner of vehicle had the knowledge with regard to the issuance of the previous policy by Shri Ram General Insurance Company Ltd. In spite of that, he had not given the correct particulars to the Tribunal and impleaded the petitioner-insurance company wrongly as insurer of the tractor. The offending vehicle was insured with the petitioner-insurance company commencing from 18.12.2014 to 17.12.2015. The petitioner-insurance company was not the insurer of the offending vehicle at the time of accident i.e. on 18.11.2014. It brought the file from the concerned branch and only then it revealed that the tractor was insured with another company i.e. Shri Ram General Insurance Company

commencing from 18.12.2013 to 17.12.2014.

He further submits that the owner of the tractor had committed forgery of the cover note, placed on record before the Tribunal as Ex.R3 whereas the petitioner-insurance company issued a cover note on 16.12.2014 and the policy was issued on the basis of the said cover note commencing from 18.12.2014 to 17.12.2015. The impugned Award is based upon conjectures and surmises. Since the appeal as per the provisions of Section 173(2) of the Motor Vehicles Act is not maintainable, therefore, the revision petition has been filed and the finding of the Motor Accident Claims Tribunal suffers from illegality and perversity, thus, urges this Court for setting aside the impugned Award.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that the revision petition filed at the instance of the insurance company is not maintainable when it is statutorily barred from not filing the same under Section 173(2) of the Motor Vehicles Act, 1988. For the sake of brevity, Section 173(2) of the Motor Vehicles Act reads as under:-

“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.”

Plain and simple reading of sub-section 2 of Section 173 prohibits any person to challenge the Award if the amount of compensation is less than ten thousand rupees. Even the Legislature in its wisdom also amended provisions of Section 102 of the Code of Civil Procedure restricting the maintainability of second appeal where the subject matter of the original suit is for recovery of money not exceeding ₹25,000/-. In case,

less than ₹25,000/-, the Courts would be flooded with the revision petitions. Once statutory provisions prohibits the filing of the statutory appeal, the affected party cannot be permitted to circumvent the statutory provisions of law by invoking the superintending power under Article 227 of the Constitution of India. The scope of superintending power has been deliberated/pondered upon by the Hon'ble Supreme Court in *Surya Dev Rai Vs. Ram Chander Rai and others 2004(1) RCR (Civil) 147* has been deliberated/pondered upon and has been held that the superintending powers by the Courts should be used in the mode and manner as has been drafted in the statute books and permitted by law.

The Legislature has put a complete full stop for redressal of the grievance in respect of the amount of compensation less than ₹10,000/-. Thus, the present revision petition, in my view, invoking the provisions of Article 227 when the statutory appeal is prohibited, is not maintainable. The bar under Section 173(2) is applicable to the persons challenging the reduction/setting aside of the Award but there is no bar to the claimant in case the amount of compensation is less than ₹10,000/- and he can seek enhancement of the same.

I would not delve upon the merits of the case. The revision petition is dismissed as not maintainable.

(AMIT RAWAL)
JUDGE

September 19, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable Yes