

RAJASTHAN HIGH COURT

National Insurance Co. Ltd.

Vs.

Hurma Devi

Civil Review Petn. No. 2 of 2004
(Shiv Kumar Sharma and F.C. Bansal, JJ.)

25.02.2004

JUDGEMENT

Shiv Kumar Sharma, J.

1. Petitioner-National Insurance Company in the instant petition seeks to review the order dated May 8, 2000 passed in DB Civil Special Appeal No. 26/2000, whereby the Special Appeal filed by the petitioner was ordered to be dismissed summarily at the admission stage.
2. It is contended by the learned counsel that the learned single Judge while deciding writ petition, did not consider the application under Order 41, Rule 27, Civil Procedure Code which was already on record.
3. Having heard the submissions and scanned the relevant provisions we find that Claims Tribunal has all the powers of the Civil Court and mandatory provisions in this regard envisaged under Rule 10.27 of the Rajasthan Motor Vehicles Rules 1990, which demarcate limited powers of Claims Tribunal as a Civil Court. Rule 10.27 reads thus:-

"10.27. Power vested in Civil Court which may be exercised by Claims Tribunal.

(1) Without prejudice to the provisions of Section 169,-

(a) every claims tribunal, may exercise all or any of the powers vested in a Civil Court under the following provisions of the Civil Procedure Code, 1908, in so far as they may be applicable, namely :-

Sections 30, 32, 34, 35(a), 75(a) and (c), 76, 77, 94, 95, 132, 133, 144, 145, 147, 148, 149, 151, 152 and 153.

(b) And subject to the provisions of Section 174.

(2) For purpose other than those specified in sub-rule (1), the Claims Tribunal may exercise all or any of the powers of Civil Court as may be necessary in any case for discharging its functions under the Act and these rules".

4. In our considered opinion the Claims Tribunal established under the Motor Vehicles Act, 1988 and Rules framed thereunder have a color of Civil Court for limited purpose as envisaged under Section 169 of the said Act read with Rule 10.27 of the Rules framed thereunder. It is pertinent to mention here that there is no ambiguity under statutory Rule 10.27 which clearly named various sections of the Civil Procedure Code, which may be exercised by a Claims Tribunal. There is no mention in the aforesaid Rule about applicability of Order 41, Rule 27 of Civil Procedure Code. Hence, we find ourselves unable to hold that application under Order 41, Rule 27, Civil Procedure Code was maintainable. For this purpose the provision indicated in Rule 10.27 cannot be stretched. We also find that while making submission before us the point in regard to filing of application under Order 41, Rule 27 before the learned single Judge was not raised at all.

5. For these reasons, the review petition being devoid of merit stands dismissed.

Petition dismissed.