

IN THE HIGH COURT OF JUDICATURE AT PATNA

United India Insurance Company Limited

vs.

Devrani Devi and Others

Miscellaneous Appeal No. 338 of 2014

7 April 2023

(Hon'ble Mr. Justice Jitendra Kumar)

Issue for Consideration

Whether the defects pointed out by office are correct or not?

Headnotes

Motor Vehicles Act, 1988—Section 173—Appeal—Defect in Filing—certified copy of Award—Statutory Deposit—appeal filed against the judgment/award—Office raised defects as non-filing of certified copy of Award and non-deposit of statutory amount of ₹25,000—appellant contended that he already filed certified copy of judgment/award—judgment and award are interchangeable in motor accident claims.

Held: certified copy of judgment/award pronounced on completion of inquiry by Tribunal is sufficient—no separate document titled award required—Office objection unsustainable and waived—Registry directed not to raise such defect in future—Appellant directed to deposit statutory amount—Presiding Officers must ensure judgments/awards contain full description of parties and officer's name to avoid delay in appeal processing. (Paras 7, 8, 11, 15)

Case Law Cited

United India Insurance Co. Ltd. vs. Most. Mangli Devi, 2017(2) PLJR 9—Relied Upon.

List of Acts

Motor Vehicles Act, 1988.

List of Keywords

Office objection, award, judgment, judgment and award are interchangeable in motor accident claims.

Case Arising From

From defects pointed out by office as that the certified copy of the Award has not been filed and second defect being that statutory amount has not been deposited.

Appearances for Parties

For the Appellant: Mr. Durgesh Kumar Singh, Advocate, Mr. Abhijeet Kumar, Advocate,

Headnotes Prepared by Reporter: Abhas Chandra, Advocate

Judgment/Order of the Hon'ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.338 of 2014

United India Insurance Company Limited, through its Divisional Manager,
Murarpur, Gaya, Appeal and Appellant through the Manager & Constituted
Attorney, Regional Office, United India Insurance Company Limited, 3rd
Floor, Chanakya Commercial Complex, R'Block, Patna.

..... O.P.-1 / Appellant

Versus

1. Devrani Devi w/o Ramchandra Yadava
2. Sushma Kumari d/o Ramchandra Yadava
3. Anand Prasad Yadava s/o Ramchandra Prasad Yadava
4. Babulal Yadava s/o Ramchandra Prasad Yadava

All the above are resident of village – Barma Thaman Bigha, P.O./P.S.-
Sherghati, District – Gaya

..... Claimants / Respondents

5. Sri Niwas Kumar s/o Sri Sachidanand Sharma
Resident of Village Gopalpur, PO/PS Sherghati, District – Gaya (Owner of
Truck).

.....O.P. - 2 / Respondent

Appearance :

For the Appellant	:	Mr. Durgesh Kumar Singh, Advocate Mr. Abhijeet Kumar, Advocate
For the Respondents	:	None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 07-04-2023 1. The present Miscellaneous Appeal has been filed

against the Judgement/Award dated 10.02.2014, passed by

Ld. Additional Motor Accidents Claims Tribunal, Adhoc-III,

Gaya in MAC Case No. 78 of 2001 (DJ) / 56 of 2013. The

Appellant has annexed a certified copy of the impugned

Judgement/Award but not deposited statutory amount of Rs.

25,000/-.

2. The office has pointed out two defects - first



being that the certified copy of the Award has not been filed. The second defect being that statutory amount of Rs. 25,000/- has not been deposited.

3. Ld. counsel for the Appellant submits that he has already filed certified copy of the Judgment/Award and hence the defect as pointed out by the office in regard to filing a copy of Award is not sustainable, hence it may be waived off.

4. In this context, he refers to the ruling of Hon'ble Division Bench of this Court in ***M/s United India Insurance Company Limited Vs. Most. Mangli Devi & Ors.*** as reported in ***2017(2)PLJR9*** wherein Hon'ble Division Bench has clearly held that "*..... the expression 'judgment' and 'award' are inter changeable and that the Tribunal shall announce award on completion of inquiry, which shall be executable and appealable.*"

5. Ld. Counsel for the appellant is also joined by other members of the bars to point out that despite the ruling of Hon'ble Division Bench in **Most. Mangli Devi Case (Supra)**, the office is frequently pointing out such defect in



complete violation of the said ruling, which is still holding the field.

6. Hence, they submit that Registrar General may be directed to ensure that the aforesaid defect is not pointed out by the office if the Appellant has filed certified copy of the Judgement/Award passed in the Claim Petition by Motor Accidents Claims Tribunal on completion of inquiry.

7. I perused the case record and considered the submission advanced by Ld. Counsel for the Appellant and the members of the bar. I find that in **Most. Mangli Devil Case (Supra)**, Hon'ble Division Bench of this Court, after considering all relevant statutory provisions and case-laws has clearly held that judgment, pronounced by Motor Accidents Claims Tribunal on completion of inquiry, is interchangeable with Award and it is executable and appealable and as such there is no need to draw separate Award. The judgment pronounced after inquiry is itself Award. Hence, if certified copy of Judgment/Award pronounced on completion of inquiry is filed by the Appellant, office cannot raise objection or point out defect



that Award is not filed.

8. Hence, the defect as pointed out by the office in regard to filing of Award is not sustainable in the eye of law, hence is accordingly waived off. The office is directed not to point out such defect in future if certified copy of Judgment/Award pronounced on completion of inquiry by Motor Accidents Claims Tribunal in claim cases is filed along with the Memorandum of Appeal.

9. As far as defect no. 2 is concerned, the appellant is directed to deposit the statutory amount within four weeks.

10. It is also relevant to note that even in case of regular Civil Appeal, the memorandum of appeal is no longer required be the accompanied by a copy of decree, after **amendment in Rule 1 of Order XLI of CPC, in the year 1999**, whereby the word "decree" has been substituted by the word "judgement" in Rule 1 of Order XLI of CPC.

11. In reference to the Award/Judgement passed by Motor Accidents Claims Tribunal and the judgements passed by Civil Courts in suits or appeals, the members of



the Bar point out that in a number of cases, the Presiding Officers of the Tribunals or the Civil Courts omit to mention the names and details of all the parties to the proceeding, in the Judgement/Award. Such omission is not only serious irregularity but even causing inconvenience and delay in disposal of the Appeal. For want of description of all the parties with details, office is not in position to report whether Appellant has impleaded all necessary or relevant parties or not and whether the Appellant has given correct address of the parties in the Memorandum of Appeal. Hence, the Judgement/Award are required to be sent to the court concerned for modification of the Judgements/Awards by way of incorporating all the parties with their details. The result is inordinate delay in disposal of Appeal, which could have been avoided if description of parties with their details could have been given in the Judgement/Award.

12. It is also pointed out by the Bar that sometimes even names of the Presiding Officers of the Courts/Tribunals are found missing in the Judgement/Award.

13. The Bar members submit that no judgement



without containing the names of the parties with their description, can be complete. Description of the parties and the name of the Presiding Officer of the Court/Tribunal are essential ingredients of all types of judgements. No description of relevant facts can be complete unless all the parties to the proceeding are described in the judgement, nor would be any meaningful analysis of facts and the law in the Judgement/Award for want of description of the parties to the proceeding.

14. I fully agree with the submission at the Bar that Judgements or Awards passed by Civil Courts or Motor Accidents Claims Tribunal must contain the description of all the parties with relevant details of their identification and residential address and name of the Presiding Officer. The judgements should be written in such a form that all the contents of a decree should be found in the judgement, after all, decree is nothing but operative part of the judgement itself. It goes without saying that a decree contains not only the name of the Presiding Officer, it contains even the description of all the parties to the proceeding. A judgement



is like genus and decree is its species. There can be nothing in the decree which can not be found in the judgement. Decree cannot be drawn from outside the judgement. Decree is drawn as per the content of the Judgement. The decree must agree with the judgement as provided by Rule 6 of Order XX of CPC.

15. Description of the parties in the Judgement/Award would also facilitate the functioning of the Appellate Courts and help in speedy disposal of the Appeals, particularly when judgements in civil suits are appealable and Appellants are no longer required to obtain a copy of decree to file appeal in view of amendment in Rule 1 of Order XLI of CPC in 1999 as pointed out earlier and when the judgement pronounced by Motor Accidents Claims Tribunal on completion of inquiry is Award and appealable and executable. In such situation, if appeal is filed with such Judgement or Award which contains no description of all the parties to the proceedings, inconvenience and fallout in processing such appeals by Registry of the Appellate Courts for reporting defects in the Appeal before admission could be



imagined. The Registry cannot verify whether all the necessary Parties are impleaded in the Appeal and whether address of the Parties as given in the Appeal are correct and match with address of the Parties as given before the court below. In such situation, the Judgement would be required to be sent to the court below for modification by way of incorporating the names of all the Parties with their particulars regarding identification and residential address. The obvious result would be inordinate delay in disposal of the appeal on account of illegal omission committed by Presiding Officers of Civil Courts and Tribunals.

16. Hence, Registrar General is directed to circulate a copy of this order amongst all the Judicial Officers presiding over Civil Courts or Motor Accidents Claims Tribunals for information and needful. A copy of this order be also sent to Director of Bihar Judicial Academy for making awareness on the subject amongst the trainee Judicial Officers. He is also directed to ensure that no longer any defect be pointed out by the Registry regarding filing of Award in Miscellaneous Appeal if the appellant has filed a



copy of the Judgement/Award pronounced by the Motor
Accidents Claims Tribunal upon completion of inquiry in a
claim petition.

17. Re-notify this case on 12.05.2023.

(Jitendra Kumar, J)

chandan/-

AFR/NAFR	AFR
Uploading Date	01.05.2023

