

Delhi High Court The New India Assurance Co. Ltd. vs Kashmiri Lal And Ors. on 9 December, 2005 Equivalent citations: IV (2005) ACC 817, 2007 ACJ 688, AIR 2006 Delhi 112, 125 (2005) DLT 571 Author: M Mudgal Bench: M Mudgal JUDGMENT Mukul Mudgal, J. Page 2531

1. This writ petition under Article 227 of the Constitution of India arose from an execution of an award in favor of the claimant in a motor accident case and discloses a tortuous route a motor accident victim as a claimant has to follow in order to recover dues by being driven to the resort to the provisions of Section 174 of the Motor Vehicles Act (hereinafter referred to as the Act). In so far as the petition on merits is concerned, it related to a penalty imposed on petitioner No. 2 who is the Regional Manager of the petitioner No. 1 company, who in the writ petition has inter alia averred that it is a government owned nationalized insurance company and that part of the matter has already been decided as the penalty imposed has been waived by this Court by its order dated 12th August, 2005. However, since the recovery of the awarded amount to the legal heirs of the motor accident claimant or the claimant itself takes considerable time inspite of awards of Motor Accidents Claim Tribunals (hereinafter referred to as MACT) in the claimants' favor, this Court had appointed Mr. Ashok Chhabra as amicus Curiae and he has ably assisted this Court to enable this Court to issue general directions to all Motor Accident Claims Tribunals in Delhi. The Court has also received able assistance from the learned counsel for petitioner No. 1 company, Mr. P.K. Seth.
2. The submission made by Mr. Chhabra disclosed that even after an award is passed in favor of a party under Section 168 of the Act, an insurance company takes considerable time in making payment even though a large number of them are public sector companies. Section 168(d) of the Act reads as under: "168. Award of the Claims Tribunal . . . (3) When an award is made under this section, the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct."
3. Even though the amount awarded by the MACT as per the mandate of Section 168(3) is required to be deposited within thirty days of announcing the award, this stipulated period of 30 days under Section 168(3) has been completely eroded in practice. The tortuous route of Section 174 of the Act has thus to be resorted to routinely by the claimants and the recovery eventually depends upon the interest if any taken by the Collector to recover the awarded amount from insurer as arrears of land revenue under Section 174 of the Act which reads as follows:- "174. Recovery of money from insurer as arrears of land revenue Where any amount is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue."
4. Mr. P.K. Seth, the learned counsel for the petitioner No. 1 has submitted that since Section 174 of the Act provides for the only prescribed manner of recovery, no further orders are required to be passed by this Court and since CPC is not directly applicable, directions analogous to CPC so as to enable the Tribunal to

become a Court ought not to be given by this Court. 5. In my view the victims of motor accidents are either persons disabled or are legal heirs of the deceased and the compensation to the such helpless victims of such accidents is indeed an ameliorative and social piece of legislation and accordingly such relief cannot be bound down by a narrow and constricted meaning of the Act and ought to receive a liberal interpretation. Section 174 in my view is only one of the modes of recovery and does not preclude other methods. Section 168(3) mandates that the awarded amount is to be deposited within 30 days of the pronouncement of the award. In any event a public sector Insurance company cannot be heard to urge that it would not pay amounts in respect of an MACT award which is enforceable except through the mode of arrears of land revenue. This plea is wholly untenable in view of the time limit of 30 days prescribed under Section 168(3) of the Act. Consequently, it is necessary to find ways and means to ensure expeditious payment of compensation payable as per the award of a Tribunal in accordance with the mandate of Section 168(3). 6. This writ petition has been filed under Article 227(1) of the Constitution which reads as follows:- “227. Power of superintendence over all courts by the High Court.–[(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.]” Page 2533 Thus since this Court has powers of superintendence over the MACTs within Delhi, it is competent to issue general directions which govern the exercise of powers by such Tribunals. 7. In view of the above pleas, the following directions are issued which are required to be followed by all Motor Accidents Claims Tribunals. (a) While filing the written statement, the concerned insurance company is required to furnish details of its Bank account and the Bank to the Court. In case a written statement has already been filed in an existing claim, all insurance companies are required to furnish the name of the concerned Bank and their account numbers within 3 months from today. (b) Within a period of 30 days of the award, which is the period prescribed for depositing the amount under Section 168(3) of the Act to the High Court, the insurance company is required to tender the payment awarded by the MACT by issuing cheques in the name of the claimant(s) unless and until a stay order has been obtained from the High Court. The names of the claimants who are to be paid the amounts along with the amount payable is required to be stated in the award. (c) If after the expiry of 90 days which is the prescribed period for preferring an appeal under Section 173(1) of the Act, payment of the amount awarded by the MACT has not been made, notice must be issued to the Bank named by the Insurance Company directing such Bank to deposit the cheque drawn in the name of the claimant/claimants legally entitled as per the award covering the amount(s) as per the MACT award within a week of receipt of such orders and cheques should be retained for being given to the claimant. (d) Once the amount is deposited by cheque as per the aforesaid procedure the MACT is required to ensure that within a period of six weeks thereafter the amount is disbursed to the claimants under the supervision of the Presiding Officer by issuing the said cheque to the claimant so that the claimants are not put to undue harassment. (e) In case for some reason it is not possible to make the payment to the claimant within six

months of the issue of the cheques in the name of the claimant, then the MACT should ensure that such cheques are returned to the Insurance Companies in lieu of fresh cheques drawn in favor of the appropriate account of the MACT which are required to be deposited in an interest bearing short term fixed deposit for a six monthly period by the MACT. (f) In case the MACT has to resort to the procedure prescribed under sub para (c) above which requires it to secure the amount through the banks upon a failure of the insurance company to deposit the amount within the time stipulated by Section 168(3) and the above procedure, cost of Rs. 5000/- payable to the claimant is required to be imposed on the Insurance Companies. (g) If directions given by the MACT to the Banks are not complied with, the MACT may order freezing of Bank Accounts to the extent covered by the award. Page 2534 8. The learned District Judge is required to ensure that a copy of this judgment is placed before all MACTs forthwith. 9. With the above directions no further claimed relief survives and the writ petition stands disposed of. The Registry is directed to send a copy of this judgment to the learned District Judge forthwith.