

ITEM NO.51

COURT NO.7

SECTION XI

S U P R E M E      C O U R T   O F   I N D I A  
R E C O R D   O F   P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).4418/2007

(From the judgement and order dated 01/12/2006 in                      FA No.3284/2006  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

INDIAN AIR GASES LTD.

Petitioner(s)

VERSUS

SHEELA DEVI &amp; ORS.

Respondent(s)

(With appln(s) for making the award rule of the court and office  
report)

Date: 10/10/2011      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)      Mr.Ajay Jain, Adv.  
                                 Mr.I.C.Jain, Adv.  
                                 Ms.Kanchan Yadav, Adv.  
                                 Mr. Jinendra Jain,Adv.

For Respondent(s)      Mr.Pramod Swarup, Sr.Adv.  
                                 Ms.Pareena Swarup, Adv.  
                                 Mr.Parveen Swarup, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Feeling aggrieved by the interlocutory order passed by  
the Division Bench of the Allahabad High Court directing it to  
deposit the compensation awarded by Motor Accident Claims Tribunal,  
Varanasi (for short, 'the Tribunal') along with interest with a  
further direction that the amount be invested and paid to the  
claimants, the petitioner has filed this petition under Article 136  
of the Constitution.

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Basant Singh, the breadwinner of the family of respondent  
Nos.1 to 3 (the name of respondent No.3 was deleted from the array  
of parties vide order dated 30.7.2010) was killed in a road  
accident, which occurred in the night of 11.4.1995.                      After about 4  
months, respondent Nos. 1 to 3 filed petition under Section 166 of  
the Motor Vehicles Act, 1988 (for short, 'the Act') for award of  
compensation.      They alleged that the accident in which Basant Singh

was killed was caused due to rash and negligent driving of the vehicle belonging to the petitioner. In its written statement, the petitioner denied the factum of accident and claimed that the vehicle belonging to it was not involved in the accident.

After considering the pleadings of the parties and evidence produced by them, the Tribunal held that the accident was caused due to rash and negligent driving of the vehicle belonging to the petitioner. The Tribunal then considered the question of compensation and held that respondent Nos. 1 to 3 are entitled to a sum of Rs.2,19,530/- with interest at the rate of 6% per annum from the date of filing the petition till realisation.

The appeal filed by the petitioner under Section 173 of the Act was admitted by the High Court on 1.12.2006 and the following interim order was passed:

"Until further orders of this Court, the execution of award dated 26.9.2006 passed by the Motor Accident Claims Tribunal/Special Judge (Anti Corruption), Varanasi in MACP No.154/1995 shall remain stayed provided the appellant deposits the entire amount awarded by the Tribunal along with interest within a period of two months from today. The amount deposited by the appellant shall be invested and paid to the claimant-respondent Nos. 1 to 3 in accordance with the directions of the Motor Accident Claims

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Tribunal, Varanasi.

The amount of Rs.25,000/- deposited by the appellant in this Court under Section 173 of the Motor Vehicles Act, 1988 shall be remitted by the Registry to the Motor Accident Claims Tribunal, Varanasi within one month and shall be included in the amount to be paid by the appellant to the claimant/respondent Nos. 1 to 3.

Office is directed to submit a report about compliance of this order when the matter is listed next."

Shri Ajay Jain, learned counsel for the petitioner argued that the unconditional direction given by the High Court for payment of the amount of compensation to the claimants is wholly arbitrary and unjustified and is liable to be set aside because in the event of success in the appeal, the petitioner will not be able to recover the amount from respondent Nos. 1 and 2. He repeatedly emphasised that in view of order dated 19.03.2007 passed by this Court, the

impugned order may be modified and the award passed by the Tribunal may be stayed subject to deposit of 50% of the awarded amount.

We have considered the submission of the learned counsel but have not felt impressed.

In our view, the discretion exercised by the High Court to require the petitioner to deposit the entire amount awarded by the Tribunal with a direction that the same be paid to the claimants does not suffer from any legal infirmity and there is no valid ground much less justification to interfere with the same by ignoring that respondent Nos. 1 and 2 lost the only breadwinner of the family. It needs no emphasis that in matter involving award of  
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compensation in accident cases, this Court is always loath to interfere with the interlocutory orders passed by the High Court.

For the reasons stated above, the special leave petition is dismissed. The petitioner shall pay cost of Rs.50,000/- because for a period of 4 years and 6 months it successfully avoided compliance of the direction given by the High Court.

Interim order passed by this Court on 19.03.2007 stands automatically vacated.

The petitioner shall comply with the High Court' order within a period of six weeks from today and also pay the cost of Rs.50,000/- to respondent Nos. 1 and 2 within that period.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master