



"(a) A discharge in bankruptcy shall release a bankrupt from all of his provable debts, whether allowable in full or in part,\* \* \*."

There is no question, but the spirit and intent of the Federal Bankruptcy Act is to discharge all claims against a bankrupt except in those areas specifically excepted by the United States Code and none of which apply herein.

One of the jurisdictional areas of courts of bankruptcy is stated in the Bankruptcy Act at 11 U.S.C.A. Section 11 (a) (2), which gives the courts power to:

"Allow claims, disallow claims, reconsider allowed or disallowed claims, and allow or disallow them against bankrupt estates;

"\* \* \* \* \*"

In Meyer v. Fleming, 327 U.S. 161, 90 L. Ed. 595, 66 S. Ct. 382, Justice Douglas said at page 170:

"But the filing of a claim in bankruptcy is not the institution of a plenary suit. It is a claim against the assets in the hands of the bankruptcy court, not an action in persona."

It would, therefore, seem the allowed proof of claim is no more than a creditor's affidavit which has been allowed by the referee and once this proof of claim is filed, said creditor has become one of the creditors in the proceedings and is paid his pro rata share from the bankrupt's estate. It cannot be executed further. It would also appear that this proof of claim could be reconsidered (see 11 U.S.C.A. Section 11 (a) (2)) and not in any sense be final.

In March of 1953 the General Assembly enacted Section 6298-47, General Code, which redefined "final judgment" for purposes of the motorists financial responsibility sections. This section was re-enacted with only minor changes in Section 4509.02, Revised Code, and provides as follows:

"As used in sections 4509.31 to 4509.67, inclusive, of the Revised Code:

"(A) 'Judgment' means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

"(B) 'State' means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada."

Section 4509.37, Revised Code, reads in part as follows:

"The registrar of motor vehicles upon receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and any non-resident's operating privilege of any person against whom such judgment was rendered, except as provided in sections 4509.01 to 4509.78, inclusive, of the Revised Code."

Applying the definition of judgment to a referee's decision to allow a claim to be included in a certification of a discharge in bankruptcy, it becomes clear that his decision in, and of itself, is not a final judgment as it relates to the financial responsibility sections of the Revised Code.

In order for a judgment to arise so as to permit the operation of the financial responsibility laws, said judgment must result from a cause of action arising out of the ownership, maintenance or use of a motor vehicle, for damages or an agreement of settlement for such damages. To be final, such judgment must be either finally affirmed on appeal or the time to appeal must have run.

The act of certification by the referee does not in and of itself serve to effect this result. Thus the statutory provisions of Section 4509.02, supra, defining judgment, are not met and the decision of the referee to include a claim in the certification cannot by that act alone, characterize that claim as a final judgment, so as to permit the Registrar of Motor Vehicles to issue a suspension under Section 4509.37, Revised Code.

It is therefore my opinion and you are hereby advised that a certification of a discharge in bankruptcy showing an allowed proof of claim cannot be considered a judgment as defined in Section 4509.02, Revised Code, so as to permit the Registrar of Motor Vehicles to issue a suspension order under Section 4509.37, Revised Code.