
(1974) 10 MP CK 0006

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 112 of 1972

Banwari Lal

APPELLANT

Vs

Vishnunarayan and Others

RESPONDENT

Date of Decision : 28-10-1974

Acts Referred:

Motor Vehicles Act, 1939 — Section 110, 110(1), 110(2), 110D

Citation : (1975) ACJ 40

Hon'ble Judges : J.S. Verma, J;G.G.Sohani, J

Bench : Division Bench

Advocate : A.S. Kutumbale, for the Appellant;

Final Decision : Allowed

Judgement

J.S. Verma, J.—This is an appeal u/s 110-D of the Motor Vehicles Act, 1939 (hereinafter referred to as the Act) against the order dated 30.6.1972 passed by the Motor Accident Claims Tribunal, Indore holding that the Tribunal has no jurisdiction to entertain and decide the Appellant's claim.

2. On 20.1.1971, there was an accident involving two motor vehicles, one of which belonged to the Appellant. As a result of the accident, the claim was preferred before the Tribunal by the Appellant on 24.6.1971. The Appellant claims a sum of Rs. 9240/- only on account of damage to his property alone, there being no claim made for bodily injury. Issue No. (4) was framed relating to the Tribunal's Jurisdiction to entertain and decide such a claim which was in respect of damage to property alone.

3. The Tribunal has decided issue No. (4) as preliminary issue taking the view that it has no jurisdiction to entertain such a claim. The Tribunal's view is based on the ground that no fresh notification under Sub-section (1) of Section 110 of the Act has been issued by the State Government after amendment of that provision empowering the Tribunal to decide claim also in respect of damage to property. The view taken by the Tribunal is that notification No. 4484-239-II-A

(2), dated the 29th December, 1969, which is the last notification, being issued prior to the amendment made in Sub-section (1) of Section 110 of the Act, was not sufficient to invest it with the jurisdiction to entertain such a claim.

4. The only question which arises for our determination is whether the Tribunal has correctly decided the aforesaid question relating to its jurisdiction.

5. The relevant amendment in Sub-section (1) of Section 110 of the Act has been brought into force with effect from 2.3.1970. There is no dispute that a claim like the present being only for damages to any property falls squarely within this amended provision and that it was not covered by Sub-section (1) of section 110 as it stood prior to this amendment. In the present case the date of accident itself is subsequent to the date on which the amended provision came into force. The claim was, therefore, naturally filed subsequent to this amendment. The question, however, is whether a notification issued under Sub-sections (1) and (2) of section 110 of the Act by the State Government prior to the aforesaid amendment in Sub-section (1) of Section 110, constituting the Claims Tribunals had the effect of conferring jurisdiction on the Tribunals so constituted to entertain and decide all claims falling legitimately within the ambit of the subsequently amended Sub-section (1) of Section 110 of the Act.

6. It is clear that the provision relating to the State-Government's power to constitute the Claims Tribunal remains unaltered by the aforesaid amendment and the only effect of the amendment is to widen the amplitude of the Tribunal's powers so as to enable the Tribunal to entertain and decide also such claim which fall within the ambit of the amendment. It is not as if the provision relating to the State Government's power to constitute the Tribunals has itself undergone some change by the aforesaid amendment.

7. Notification No. 4484-239. II-A(2) dated the 29th December, 1969 published in the Madhya Pradesh Rajpatra dated 9.1.1970 is the relevant notification. All that this notification does is to constitute the Motor Accident Claims Tribunal mentioned therein for the areas also specified in it. The notification by itself does not specify the powers to be exercised by the Tribunals, the same being stated in Sub-section (1) of Section 110 of the Act. It is therefore, clear that the Tribunal so constituted are to exercise the powers available to them by virtue of Sub-section (1) of Section 110 of the act as it exists at the relevant time when power has to be exercised. In this respect, it is the content of Sub-section (1) of Section 110 of the Act at the relevant time which is decisive of the question and not the date of the notification by which the Tribunals have been constituted.

8. We also do not find anything mentioned in the said notification to suggest that the powers of the Tribunals so constituted were confined only to those matter which were specified in the unaltered Sub-section (1) of section 110 which existed at the date of the notification. Clause (c) of the notification states after constituting the Tribunals and appointing the persons thereto, that all claims pending before any of the Tribunals constituted under the earlier notifications

shall stand transferred to the Claims Tribunals having jurisdiction under this notification which shall then proceed to adjudicate the same. Clause (c) of the notification relating to pending claims has admittedly no application to the present case, the claim of the Appellant not being a pending claim and having been filed subsequent to the notification and the amendment in Section 110 itself.

9. The result is that there is nothing either in Section 110 or in the aforesaid notification to justify the view taken by the Claims Tribunal in the present case. In our opinion, there can be no doubt that the Tribunal clearly has jurisdiction to entertain the Appellant's claim and in taking the opposite view it has failed to exercise jurisdiction vested in it.

10. This appeal, therefore, succeeds and is hereby allowed with costs. Counsel's fee Rs. 100/-, if certified. The case shall now go back to the Tribunal for proceeding to adjudicate the same in accordance with law.