
(1977) 09 RAJ CK 0004

In the Rajasthan High Court

Case No : Civ. Miscellaneous Appeal No. 199 of 1972

Dadulal Gupta

APPELLANT

Vs

Basant Kumar

RESPONDENT

Date of Decision : 13-09-1977

Acts Referred:

Motor Vehicles Act, 1988 — Section 110, 110(1), 110A, 110A(1)

Citation : (1978) ACJ 193 : (1977) RLW 419

Hon'ble Judges : J.P. Jain, J

Bench : Single Bench

Advocate : B.P. Dave, for the Appellant; Rajendra Mehta and D.S. Shishodia, for the Respondent

Final Decision : Allowed

Judgement

Jain, J.—This is an appeal against the order of the learned Motor Accidents Claims Tribunal, Udaipur dated 21st day of September, 1972.

2. A claim for compensation for damage to the truck of the Appellant and for injuries to its driver involved in an accident which took place on 16th March, 1970, was filed before the said Tribunal. It was alleged that the Bus No. RJS. 1736 collided with the truck. The non-Petitioners raised an objection that the Tribunal had no jurisdiction to entertain the claim for compensation for damage to the truck. The learned Tribunal held that it had jurisdiction to entertain the claim and it directed that the claim petition shall be returned to the Petitioner for presentation before a proper Court or Tribunal. The reasoning of the learned Tribunal was that before its amendment in 1969, Section 110 of the Motor Vehicles Act, only provided for constitution of a Tribunal for adjudication of claims for compensation for death or bodily injury. Therefore, the Tribunal as it was originally constituted before the amendment, had no jurisdiction to adjudicate upon claims relating to property. By a mere amendment of Section 110, the jurisdiction cannot be extended without reconstitution of the Tribunal.

3. I have heard arguments. The learned Counsel for the Appellant Mr. B.P. Dave maintained that in the original notification dated October 7, 1966, constituting the Tribunal, it was not mentioned that it was constituted only for adjudicating upon the claims regarding death or bodily injury. The Tribunal was constituted for a particular area and when by an amendment of Section 110A, the jurisdiction of the Tribunal was extended to cover the damages in respect of property as well, it automatically acquired the extended jurisdiction. He relies upon Delhi Transport Corporation Vs. Shri P.S. Shukla, Motor Accident Claims Tribunal, and Others, which is on all fours with the case in hand. The High Court of Madhya Pradesh in a similar situation had held that the Tribunal had jurisdiction to entertain such a claim. Another argument of the learned Counsel for the Appellant is that in B.S. Nat Vs. Bachan Singh and Others, it was held that even before the amendment, the Tribunal had powers to deal with composite claims and it could adjudicate upon the claim for loss of and damage to property. In that view of the matter, the amendment is merely declaratory and no further reconstitution of the Tribunal was called for.

4. As against this Mr. Rajendra Mehta, learned Counsel for the Respondent No. 1, referred to Wing Commander J.S. Sodhi v. Lt Col. I.S. Deol. In that case, after the amendment of 1963 came into force, a fresh notification was issued investing the Tribunal with the jurisdiction to adjudicate upon claims for compensation in respect of damage to any property of the third party. Similarly, in Delhi Transport Corporation Vs. Shri P.S. Shukla, Motor Accident Claims Tribunal, and Others, in the pre-existing notification an amendment was made in order to give the Tribunal an extended jurisdiction. He urged that similar action should have been taken by the State Government to share too, if it was desired to extend the jurisdiction of the Tribunal. An extreme view is however, taken in B.S. Nat v. Bachan Singh that though the provisions of Section 110(1) of the said Act have been amended by Act No. 56 of 1969, so as to enable the States to empower the Claims Tribunal to adjudicate the claims in respect of damage to property also, yet since no corresponding consequential amendments have been made in Section 110-A(1) so to give right to a third party to file a claim for damages in respect of property, the Tribunals were precluded from adjudicating upon such claims.

5. I have considered over the matter and with due respect, I am in great disagreement with the view taken by the Punjab and Haryana High Court in B.S. Nat Vs. Bachan Singh and Others, I am inclined to fall in line with the view taken by the Madhya Pradesh High Court in Banwarilal's case and since the notification of the State Government simply provided for constitution of Tribunals with out specifying their jurisdictions, whatever jurisdictions the law allowed at the relevant time, can be exercised by such Tribunals. In that view of the matter, the judgment of the learned Tribunal appears to be erroneous.

6. Consequently, I accept this appeal, set aside the order of the learned Tribunal under appeal and direct it to adjudicate upon the claim for compensation with

respect to any damage to the property as well. In the circumstances of the case there shall be no order as to costs.