
(1961) 03 MP CK 0002

In the Madhya Pradesh High Court

Case No : M.F.A. No. 159 of 1960 & Miscellaneous (First) Appeal No. 159 of 1960

Dr. Om Prakash Mishra

APPELLANT

Vs

National Fire and General Insurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 15-03-1961

Acts Referred:

Motor Vehicles Act, 1939 — Section 110, 110(1), 110A , 110B, 110C

Citation : AIR 1962 MP 19 : (1963) ILR (MP) 699

Hon'ble Judges : S.P. Bhargava, J;N.M. Golvalker, J

Bench : Division Bench

Advocate : J.P. Sanghi, for the Appellant; T.C. Naik, for the Respondent

Final Decision : Allowed

Judgement

Bhargava, J.—This appeal arises out of a claim made by the appellant before the Motor Vehicles Claims Tribunal, Jabalpur, on the allegation that there was a collision between his car (No. MPJ 9339) and the motor bus (No. MPJ 790) belonging to the respondent, No. 2, on 13-9-1959. It was alleged that the petitioner sustained bodily injury in the accident for which damages amounting to Rs. 10,200/- were claimed. It was also alleged that in the same accident, the petitioner's car was damaged and on account of the damage to his car, Rs. 6,000/- as damages were claimed.

2. The Claims Tribunal held after hearing arguments that it had no jurisdiction to try the claim in respect of damage to the car and decided issue No. 10 (a) against the appellant. It is against this order that the present appeal has been filed.

3. Before we heard arguments on merits, a preliminary point was raised on behalf of the respondents challenging the tenability of this appeal. The objection is based on the provision contained in Section 110-D of the Indian Motor Vehicles Act (hereinafter called the "Act") which reads as under:--

"Section 110-D (1):--Subject to the provisions of sub-section (2), any person

aggrieved by an award of a Claims Tribunal may, within ninety days from the date of award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

2. No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than two thousand rupees."

4. Learned counsel for the respondents argues that according to this section, an aggrieved person has been given the right of an appeal only when there comes into existence an award of Claims Tribunal. In the instant case, it was urged that the order passed by the Claims Tribunal did not amount to an award and, therefore, the appeal was not competent.

5. On the other hand, it was contended by Shri J.P. Sanghi on behalf of the appellant, that not to give an award itself was an award under the particular circumstances of this case and, therefore, the order passed by the Claims Tribunal was appealable.

6. In our view, the appeal must be held to be competent because the effect of the order clearly is that to the extent of damages claimed for damage to the car, the Claims Tribunal has definitely refused to go into the question and, therefore, so far as the Tribunal is concerned, the order [Passed amounts to that the damages in these proceedings could not be awarded to the appellant. At any rate, the order of the Claims Tribunal has the effect of doing away with the award in this respect altogether. It would also be seen that the remedy by way of a recourse to the Civil Court is completely bailed by Section 110-F of the Act wherein it has been provided that where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area....."

7. A somewhat similar argument was addressed to the Court with regard to an award under the provisions of the Arbitration Act in the case reported in Jagdish Mahton and Others Vs. Sundar Mahton and Others, . It was contended in that case as it is contended here that there was in fact no award and, therefore, the appeal did not lie. Their Lordships meeting this argument observed in para 12 of the judgment as under:--

"The principal reason urged against his interpretation is that on the finding of the Court below there was in fact no award. I have, however, pointed out that in the cases coming under Clause (b) of Section 30, there is really no award and yet the section provides for the setting aside of the "award". Similarly, Section 33 speaks of a "party to an arbitration agreement"" though that very person may be challenging the existence of an arbitration agreement".

It was further considered that when the Act has provided for an appeal from an

order modifying or correcting award in Section 39(1) (iii), it is not likely that it would not provide appeal against an order which has the effect of doing away with the award altogether. It would be seen that Section 110-D(2) of the Act provides for an appeal if the amount in dispute in the appeal is Rs. 2000/- or more. It seems to be against the intendment of this provision itself that no appeal should be tenable when the entire claim for Rs. 6,000/- is being thrown out by the Court for the reasons aforesaid.

8. In *Nawab Syed Hasan Ali Khan Vs. Nawab Askari Begam*, , the facts were that an application u/s 14 of the Arbitration Act was tiled in the trial Court. As a result of that application, the award was also filed in the Court and the objections to the award were invited. Thereafter, one of the parties filed objections and the Court adjudicated on these objections after going into the matter. The Court finally dismissed the application for filing the award. It was held by a Division Bench of that Court that the order of the trial Court amounted to an order setting aside an award and would, therefore, be appealable. In that case, the application for filing the award was dismissed.

In the present case, the claim made with regard to damages to the car in the application submitted to the Claims Tribunal has been dismissed. The very same reasons which induced their Lordships of the Allahabad High Court to hold that the order dismissing the application for filing the award itself amounted to an order setting aside the award, hold good in the present case and the order which has been passed to the effect that no award will be made in the matter of damages to the car should be construed as an award within the meaning of Section 110-D of the Act for the purposes of this appeal. We, therefore, hold that this appeal is tenable.

9. Coming next to merits, Shri Sanghi points out that in the instant case all the requirements of Section 110 (1) of the Act are fully satisfied. The claim is for compensation. It is in respect of an accident which involved bodily injury and it arises out of the use of motor vehicles. The mere fact that, in addition, compensation for damages to the car has been claimed does not in any way oust the jurisdiction of the Claims Tribunal, particularly, when Section 110-F of the Act bars the jurisdiction of Civil Court relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal.

10. In our view, the contention, of the appellant must prevail. It cannot be denied that the application claiming compensation is in respect of an accident which involves bodily injury to a person arising out of the use of the motor vehicles. In addition, compensation has been claimed for damage suffered by the vehicle. The question is as to whether there is something in the language of the section which debars a Claims Tribunal from entertaining a claim for compensation with regard to the damage to the property when other conditions of the Section are fully satisfied. We find absolutely nothing in the wording of the section to come to any such, conclusion. It has not been stated in the Section that "compensation" before the Claims Tribunal can be claimed in respect of

death or bodily injury along. The word "compensation," has not been followed in the section by anything which would restrict the scope of the award of compensation to a particular type of injury. If the jurisdiction of Claims Tribunal was intended to be so confined, one would expect that to be plainly stated. The word "compensation" is comprehensive enough to include loss or damage to person as well as to vehicle or other property.

11. Another important word used in Section 110 of the Act is the word "involving" just before the words "death of, or bodily injury to", and followed by the words "in respect of accidents". The language used clearly indicates that if bodily injury or death has not resulted, the claim for compensation, for the vehicle alone could not be filed before the Claims Tribunal. Thus, if the loss sustained is merely a loss of property, it seems to be the clear policy underlying these provisions that the matter has to be resorted to in a Civil Court. In our view, the language of the Section does not permit the throwing out of a case in which there is a joint or composite claim made for the bodily injury sustained as also for damages to the vehicle or other property arising out of the accident.

12. Considering the entire scheme of Sections 110 and 110-A to 110-P of the Act, the following four propositions may be formulated:--

(1) If no death or personal injury results in an accident arising out of the use of motor vehicles, the claim for compensation for loss suffered in property alone is not tenable before a Claims Tribunal. Such a claim is to be made in a Civil Court.

(2) If death or personal injury results in an accident arising out of the use of motor vehicles on the basis of express wordings used in these sections, the claim for compensation for such loss suffered has to be made before the Claims Tribunal and cannot be tried in a Civil Court.

(3) Loss or damage of property may be suffered by a person who has not been given a right to make an application under the provisions of Section 110-A of the Act to the Claims Tribunal. In such a case, obviously no application lies to the Claims Tribunal and the only remedy will be in a Civil Court.

(4) Lastly, there may be cases of composite injuries in which in the accident arising out of the use of motor vehicles death or personal injury may have resulted and at the same time, there may be loss or damage suffered in the property by the person who has suffered personal injury or where death has resulted from the accident, loss may be sustained by the deceased or by his legal representative. If the claim for compensation of such a composite nature for the injuries suffered bodily or on account of death together with the claim for compensation for loss or damage suffered in property, in our view it is triable by the Claims Tribunal.

13. The instant case falls within the last of the categories, specified above.

14. In fact, this seems to be the only reasonable view having regard to the provisions of Section 110-F of the Act and the general policy of law to avoid

multiplicity of proceedings and a conflict of adjudication on the same point. It is clear that if it be held that the claim with regard to compensation for damage to the car is competent only before a civil Court and the claim for compensation for bodily injury suffered is to be tried before the Claims Tribunal, the danger of conflicting findings would automatically be created.

It would further be seen that the claim for compensation is not required to be broken into two parts by any requirement of Section 110 of the Act. The section nowhere provides that part of the compensation, that is to say, in respect of death or bodily injury, is to be claimed before the Claims Tribunal and the other part with regard to damage to property has to be claimed before a Civil Court.

15. The Claims Tribunal has not given any convincing reasons to hold that it had no jurisdiction to try this claim. It merely says that "this tribunal has jurisdiction to adjudicate upon claims for compensation involving death. Or bodily injury of a person and thus, scope of this Tribunal is limited to cases in which there is a death or bodily injury to persons. Damage to a car will not be covered by the expression "death or bodily injury to the person.....".

This last observation is no doubt correct but still the conclusion reached by the Tribunal is erroneous. It appears that the learned Claims-Tribunal misconstrued the use of the expression "involving the death of, or bodily injury to, persons" without further mention of property in the body of the Section and lost sight of the fact that the word "involving" Used therein did not limit the claim of compensation to the case of death or bodily injury alone but provided only a criteria for going before the Tribunal.

16. The cardinal rule of construction of statutes is to read the statutes literally, that is, by giving to the words used by the legislature their ordinary, natural and grammatical meaning. If, however, such a reading leads to absurdity and the words are susceptible of another meaning, the Court may adopt the same. But, if no such alternative construction is possible, the Court must adopt the ordinary rule of literal interpretation, (vide *Jugalkishore v. Raw Cotton Co. Ltd.*, (S) AIR 1955 SC 3760. We are of the view that by giving the words used in Section 110 of the Act their Ordinary, natural and grammatical meaning as stated above, not only no absurdity results but multiplicity of proceedings also is avoided and possibility of conflicting adjudication is set at rest.

17. We, therefore, hold that the claim in respect of damage to the car is triable by the Claims Tribunal.

18. The result is that the appeal succeeds. The order of the Claims Tribunal, dated 2-9-1960, is set aside and the Claims Tribunal is directed to proceed to inquire into and adjudicate upon the whole claim on merits. Considering the circumstances of the case, we pass no order as to costs.