

(1989) 08 PAT CK 0023
In the Patna High Court
Case No : L.P.A. No. 64 of 1988 (R)

General Manager (H), Hazaribagh Area of Central Coalfields Ltd. and Another APPELLANT

Vs

Anjan Banerjee and Another RESPONDENT

Date of Decision : 22-08-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 122, 125, 141, 2
Constitution of India, 1950 — Article 225, 226, 227, 329
General Clauses Act, 1897 — Section 8
Limitation Act, 1963 — Section 5
Representation of the People Act, 1951 — Section 116, 116A, 98, 99

Citation : (1990) ACJ 550 : (1990) 2 PLJR 194

Hon'ble Judges : S.B. Sinha, J; Narinder Singh Rao, J

Bench : Division Bench

Advocate : Debi Prasad and Suresh Prasad, for the Appellant; B.K. Dey and G. Mustafa, for the Respondent

Final Decision : Allowed

Judgement

S.B. Sinha, J.—This appeal raises a question as to whether a Letters Patent Appeal lies to this court in terms of Clause 10 of the Letters Patent of the Patna High Court, before a Division Bench from the decision of a learned single Judge of this court, when the same arises out of a decision of a Tribunal or court constituted under a self-contained code.

2. The facts of the case lie in a very narrow compass. Respondent No. 1 had filed an application before the Motor Accidents Claims Tribunal at Hazaribagh in terms of Section 110-A of the Motor Vehicles Act, 1939 (hereinafter called and referred to for the sake of brevity as "the said Act") alleging, inter alia, therein that while he was walking on Pugmal Road in the town of Hazaribagh at about 3.30 p.m. on 3.10.1986, a bus bearing registration No. BRM 8463, owned by appellant No. 1 and driven by appellant No. 2, came in a high speed and owing to rash and negligent driving on the part of appellant No. 2, an accident occurred as a result

whereof respondent No. 1 fell down and suffered bodily injuries.

According to the said respondent, his legs were crushed under the wheels of the vehicle. The respondent claimed a sum of Rs. 3,84,000/-by way of compensation.

3. Mr. Bharat Prasad Sharma, Additional Claims Tribunal, Hazaribagh by his judgment and award dated 12.5.1987 passed in Miscellaneous Claim Case No. 6 of 1987 on the basis of the evidence on record, awarded a sum of Rs. 2,57,800/- in favour of respondent No. 1 by way of compensation for the bodily injuries suffered by the said respondent in the aforementioned accident.

4. The appellants being aggrieved by and dissatisfied with the said judgment and award preferred an appeal in this court in terms of Section 110-D of the said Act which was marked as Miscellaneous Appeal No. 64 of 1988 (R).

By an order dated 11.10.1988, a learned single Judge of this court dismissed the said appeal in limine without assigning any reason.

This Letters Patent Appeal has been preferred against the said order of the learned single Judge dated 11.10.1988 passed in the aforementioned Misc. Appeal No. 64 of 1988 (R).

5. In this appeal, the appellants filed an application for stay of realisation of the awarded amount pending in Certificate Case No. 1 of 1989-90 of the court of the District Certificate Officer, Hazaribagh, which came under the heading "for orders" and by order dated 18.7.1989, in the facts and circumstances of this case, it was considered desirable to dispose of the entire appeal on its merits.

By order dated 18.7.1989, this appeal was posted for hearing on 26.7.1989. Thereafter the appeal was heard on merits and is being disposed of by this judgment.

6. In this appeal, a question has been raised as to whether the said Act being a self-contained code, a Letters Patent Appeal in terms of Clause 10 of the Letters Patent of the Patna High Court is maintainable.

7. Mr. B.K. Dey, learned counsel appearing on behalf of respondent No. 2 and Mr. G. Mustafa, learned counsel appearing on behalf of respondent No. 1, contended that the said Act being a self-contained code and the Motor Accidents Claims Tribunal being a Tribunal, the provisions contained in Clause 10 of the Letters Patent of the Patna High Court cannot be said to have any application whatsoever. Learned counsel in this connection placed strong reliance upon a recent decision of the Supreme Court in the case of Upadhyaya Hargovind Devshanker Vs. Dhirendrasinh Virbhadrasinghji Solanki and Others, .

8. Mr. B.K. Dey, learned counsel appearing on behalf of respondent No. 2, further submitted that a Motor Accidents Claims Tribunal is a Tribunal and not a court. In this connection the learned counsel relied upon a decision of the Supreme Court in the case of Harinagar Sugar Mills Ltd. Vs. Shyam Sundar Jhunjunwala and Others, and Beeran v. Rajappan 1980 ACJ 287 (Kerala).

9. He has further submitted that the right of appeal from a judgment and award passed by the Tribunal has been conferred upon this court by reason of the provisions of the said statute and not under the general law. Learned counsel further pointed out that even a light of appeal under the said Act is not an absolute one, but a restricted one in the sense that an insurer can prefer an appeal only on limited grounds and no appeal lies from the judgment and award below a sum of Rs. 2,000/-awarded by way of compensation.

10. The learned counsel has further pointed out that even the provisions of the CPC have not been made applicable in their entirety as in a proceeding before the Tribunal, only some provisions thereof have been made applicable in terms of proviso to Section 110 of the Act and Rule 20 of the Bihar Motor Accidents Claims Tribunal Rules, 1961.

11. Learned counsel in this connection has also relied upon two Division Bench decisions in the case of Jaimangal v. State 1989 BBCJ 245 and in the case of Naya Dawakhana v. State 1989 BBCJ 253 and submitted that in these decisions, it has been clearly held that Section 5 of the Limitation Act has no application in a proceeding before a statutory Tribunal, as the said statutory Tribunals are not courts within the meaning of the provisions of the Limitation Act, 1963.

12. The learned counsel further submitted that the provisions contained in Sections 110 to 110-F of the Act are merely procedural and not substantive. For this proposition the learned counsel relied upon a decision of the New India Insurance Co. Ltd. Vs. Smt. Shanti Misra, Adult,

The learned counsel further submitted that the word "judgment" for the purpose of Clause 10 of the Letters Patent must be given the same meaning as defined in Section 2(9) of the CPC and as in the instant case, the appeal preferred by the appellants has been dismissed in limine, the same being not a judgment" within the meaning of the aforesaid provisions, this appeal is not maintainable.

13. Mr. Debi Prasad, learned counsel appearing on behalf of the appellants, on the other hand, submitted that the High Court while exercising its appellate jurisdiction in terms of Section 110-D of the said Act is a court and, as such, Clause 10 of the Letters Patent of the Patna High Court shall apply in the instant case.

14. The learned counsel, in this connection, has placed strong reliance upon a Full Bench decision of the Delhi High Court in the case of Municipal Corporation of Delhi Vs. Kuldip Lal Bhandari and Others, and in Shanti Devi and Others Vs. General Manager, Haryana Roadways, Ambala and Others, National Sewing Thread Co. Ltd. Vs. James Chadwick and Bros. Ltd. (J. and P. Coats Ltd., Assignee), and Southern Roadways v. E.S.I. Corporation 1973Lab IC 1555.

15. Clause 10 of the Letters Patent of the Patna High Court reads as follows:

And we do further ordain that an appeal shall lie to the said High Court of Judicature at Patna from the judgment (not being a judgment passed in the

exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction and not being a sentence or order passed or made in the exercise of power of superintendence under the provisions of Section 107 of the Government of India Act or in the exercise of criminal jurisdiction) of one Judge of the said High Court or one Judge of the any Division Court, pursuant to Section 108 of the Government of India Act and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgment of one Judge of the said High Court or one Judge of any Division Court, pursuant to Section 108 of the Government of India Act, made on or after the first day of February, One thousand nine hundred and twenty-nine in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a court subject to the superintendence of the said High Court where the Judge who passed the judgment declares that the case is a fit one for appeal; but that the right of appeal from other judgments of Judges of the said High Court shall be to Us, Our Heirs or Successors in our or their Privy Council, as hereinafter provided.

16. The aforementioned provision is in pari materia with Clause 15 of the Letters Patent of the Bombay High Court and similar provisions of the Letters Patent of different High Courts.

17. From a bare perusal of aforementioned provisions, it is clear that an appeal lies before a Division Bench of this court from a judgment of a single Judge, if an order has been passed in terms of Section 108 of the Government of India Act, 1915. It is not in dispute that in this case, the exception provided for in Clause 10 of the Letters Patent of the Patna High Court is not applicable.

18. In the case of Municipal Corporation of Delhi Vs. Kuldip Lal Bhandari and Others, it was held that an appeal lies to a Division Bench in terms of Clause 10 of the Letters Patent from a judgment of a single Judge passed u/s 110-D of the Motor Vehicles Act, as the same comes within the purview of the word "Judgment" within the meaning of Clause 10 of its Letters Patent. It was held in that case that while hearing an appeal, the High Court acts as a court and not as a Tribunal.

Similarly, the Punjab & Haryana High Court in the case of Shanti Devi v. General Manager Haryana Roadways 1971 ACT 247 held that a Letters Patent Appeal will be maintainable before the Division Bench against the judgment passed by learned single Judge of the High Court in terms of Clause 10 of its Letters Patent.

19. As mentioned hereinbefore, the aforementioned two decisions proceed on the basis that the High Court exercising its appellate jurisdiction u/s 110-D of the Act acts as a court and as such an appeal against the judgment passed by the learned single Judge is maintainable before a Division Bench.

20. However, in these cases, the question as to whether a Letters Patent Appeal

is maintainable when a right of appeal is provided to High Court by reasons of the provisions of a self-contained code has not been considered. But in view of the various decisions of the Supreme Court, in my opinion, it is not necessary for us to consider the said question in great details.

21. A right of appeal is a creature of statute. Such a right cannot ordinarily be taken away unless conclusion thereof has been made expressly or by necessary implication under a statute.

22. Section 108 of the Government of India Act reads as follows:

Each High Court may by its rules provide as it thinks fit for the exercise, by one or more Judges, or by Division Courts, constituted by two or more Judges of the High Court, of the original and appellate jurisdiction vested in the court.

It is well-known that the said provision is saved by reason of Section 8 of the General Clauses Act as also in terms of the provisions of the Interpretation Act, and rules of the High Court can now be framed in terms of the provisions of Article 225 of the Constitution of India.

23. The Supreme Court in the case of National Sewing Thread Co. Ltd. Vs. James Chadwick and Bros. Ltd. (J. and P. Coats Ltd., Assignee), , has considered the question as to whether a Letters Patent Appeal will be maintainable under Clause 15 of the Letters Patent of the Bombay High Court when it exercises an appellate jurisdiction u/s 76 of the Trade Marks Act, 1940 from an order passed by the Registrar of the Trade Marks.

Section 76 (1) of the Trade Marks Act, 1940 reads as follows:

Save as expressly provided in the Act, an appeal shall lie, within the period prescribed by the Central Government, from any decision of the Registrar under this Act or the Rules made thereunder to the High Court having the jurisdiction.

The Supreme Court took into consideration that the Trade Marks Act does not provide or lay down any procedure for future conduct of that appeal in the High Court, and as such, the High Court while adjudicating upon such an appeal acts as a High Court like any other matter which comes before it in its original or appellate jurisdiction. The Supreme Court in that case clearly held that an appeal u/s 76 of the Trade Marks Act shall also be regulated by the rules framed by the High Court as in the case of other appeals of civil nature.

24. Supreme Court in the aforementioned case laid down the law in the following terms:

Though the facts of the cases laying down the above rules were not exactly similar to the facts of the present case, the principle enunciated therein is one of general application and has an apposite application to the facts and circumstances of the present case. Section 76, Trade Marks Act confers a right of appeal to the High Court and says nothing more about it. That being so, the High Court being seized as such of the appellate jurisdiction conferred by Section 76 it

has to exercise that jurisdiction in the same manner as it exercises its other appellate jurisdiction and when such jurisdiction is exercised by a single Judge, his judgment becomes subject to appeal under Clause 15 of the Letters Patent, there being nothing to the contrary in the Trade Marks Act.

25. It was further held in that decision that a judgment delivered in an appeal u/s 76 of the Trade Marks Act is also passed pursuant to Section 108 of the Government of India Act.

26. Whatever doubt could have been raised in the decision in the National Sewing Thread Co. Ltd. Vs. James Chadwick and Bros. Ltd. (J. and P. Coats Ltd., Assignee), , the matter was clarified and set at rest by the Supreme Court in the case of South Asia Industries Private Ltd. Vs. S.B. Sarup Singh and Others, .

27. A Constitution Bench of the Supreme Court in the aforementioned decision held that Clause 15 of the Letters Patent of the Bombay High Court applied irrespective of the fact whether the High Court had been exercising its appellate jurisdiction from an order passed by the court or a Tribunal. The Supreme Court in the aforementioned case held as follows:

The following legal position emerges from the said discussion. A statute may give a right of appeal from an order of a Tribunal or a court to the High Court without any limitation thereon. The appeal to the High Court will be regulated by the practice and procedure obtaining in the High Court. Under the rules made by the High Court in exercise of the powers conferred on it u/s 108 of the Government of India Act, 1915, an appeal u/s 39 of the Act will be heard by a single Judge. Any judgment made by the single Judge in the said appeal will, under Clause 10 of the Letters Patent, be subject to an appeal to that court. If the order made by the single Judge is a judgment and if the appropriate legislature has, expressly or by necessary implication, not taken away the right of appeal the conclusion is inevitable that an appeal shall lie from the judgment of a single Judge under Clause 10 of the Letters Patent to the High Court. It follows that, if the Act had not taken away the Letters Patent Appeal, an appeal shall certainly lie from the judgment of the single Judge to the High Court.

It was also held:

In the view we have expressed it is not necessary to consider the question whether the Tribunal is a court or not, for, as we have pointed out earlier, it is not germane to the question of maintainability of the Letters Patent Appeal.

28. The Supreme Court in the case of Umaji Keshao Meshram and Others Vs. Radhikabai and Another, , while considering the question as to whether an appeal lies against an order passed under Article 226 of the Constitution of India considered the conspectus of law as to how the Letters Patent came into being by referring to various charters issued by the King or the Queen, as the case may be, from time to time, in England as also the provisions of High Courts Act, 1861, the Government of India Act, 1915, Government of India Act, 1935 and

other legislations whereby and whereunder the High Courts were constituted and came to the conclusion that the provisions of appeal under the Letters Patent of a High Court applies to Article 226 of the Constitution of India.

It was held in the said decision that the right of appeal unless excluded by the Letters Patent of the High Court or by the statutory provisions, would continue to govern the matters before the High Court. The Supreme Court further held that an appeal is a continuation of the original proceedings and thus, where an appeal is provided by the Letters Patent, the same shall enure to the benefits of the litigants. In that case the Supreme Court held as follows:

(109) The question whether an intra-court appeal lay against the judgment of a single Judge in a petition under Article 226 or 227 of the Constitution was not before the court in *Shah Babulal Khimji Vs. Jayaben D. Kania and Another*, and did not fall to be decided in it. In fact, as stated in the above passage, the court refrained from expressing any opinion with respect to the nature of an order passed in a proceeding under Article 226 of the Constitution. The statement in the above passage that such proceedings are governed by rules framed under the CPC and not by Letters Patent was merely a casual and passing observation and not intended to be a statement of the law on the point. In fact, proceedings under Article 226 cannot be governed by rules made by the High Courts under the Code of Civil Procedure, 1908. Under Sections 122 and 125 of the Code, the High Courts are conferred with the power to make rules regulating their own procedure and the procedure of the civil courts subject to their superintendence and they can by such rules annul, alter or add to all or any of the rules in the First Schedule to the Code. These rules are, therefore, intended to regulate the exercise of procedure in respect of matters to which the Code applies. The Code deals with suits and appeals, reference, review and revision arising out of orders and decrees passed in suits. u/s 141, the procedure provided in the Code in regard to suits is to be followed, as far as it can be made applicable, in all proceedings in any court of civil jurisdiction. The explanation to that section inserted by the CPC (Amendment) Act, 1976 provides as follows:

Explanation--In this section, the expression "proceedings" includes proceedings under Order IX, but does not include any proceeding under Article 226 of the Constitution.

The power of a High Court to make rules of the court and to regulate the sittings of the court and members thereof sitting single or in Division Courts is to be found in its charter, whether it be a statute or a Letters Patent. The position with respect to existing High Courts has already been set out in detail above. So far as High Courts which came into existence after the commencement of the Constitution are concerned, whenever new High Courts were set up the relevant statute made provisions in that behalf, for instance, the Andhra State Act, 1953, the States Reorganisation Act, 1956, the Bombay Reorganisation Act, 1960, the Delhi High Court Act, 1966, and the State of Himachal Pradesh Act, 1970. It is the charter of the High Court which generally confers a right of intra-court appeal

and it is the rules made under the rule-making power of the High Court which generally provide which matters are to be heard by a single Judge and which by a Division Bench though at times statutes may also do so, as for example, the Kerala High Court Act, 1958, and the Karnataka High Court Act, 1961. Where by the charter of a High Court matters are not required to be heard by any particular number of judges and such charter provides for an intra-court appeal from the decision of a single Judge, whether such an appeal would lie or not would depend upon whether by the rules made by the High Court in the exercise of its rule-making power the matter is heard by a single Judge or a Division Bench subject to the condition that such right of appeal is not otherwise excluded.

29. It is, therefore, clear from the aforementioned authoritative pronouncements of the Supreme Court that a right of appeal provided for under Clause 10 of the Letters Patent cannot be curtailed, unless the same is excluded either by a charter or by statutory provisions.

30. In view of the aforementioned Supreme Court decisions, it is not necessary to consider the other decisions as referred to by Mr. Debi Prasad, as in the said decisions, similar views have been taken,

31. There is no doubt that a right of appeal provided for u/s 110-D of the Act is restricted, but while an appeal is maintainable and is decided in terms of Section 110-D of the said Act, there can be no doubt that the same becomes a judgment within the meaning of Clause 10 of the Letters Patent.

The Bihar Motor Accidents Claims Tribunal Rules also do not lay down the procedure of appeal except that an appeal against the award of a Claims Tribunal shall be preferred in the form of a Memo stating concisely the grounds on which appeal is preferred, and the same shall be accompanied by a copy of the judgment and the award appealed against.

32. A judgment as defined in Section 2(9) of the CPC is meant to apply in respect of judgments rendered under the said Code. A judgment within the meaning of Clause 10 of the Letters Patent of the High Court must be given a broader same meaning so as to mean an order whereby and where-under the right of a party has been decided.

An order dismissing an appeal in limine would also be a judgment within the meaning of Clause 10 of the Letters Patent, inasmuch as thereby the right of the parties is finally decided, unless the said order is set aside by an appellate court or by the Supreme Court of India, and the same shall be final and binding between the parties.

33. In the case of Upadhyaya Hargovind Devshanker Vs. Dhirendrasinh Virbhadrasinghji Solanki and Others, , the Supreme Court was considering an election matter. The right to adjudicate upon a dispute arising out of an election matter has been conferred upon the High Courts by reason of Article 329(b) of the Constitution of India and the provisions of the Representation of the Peoples

Act.

34. In terms of Section 116 of the Representation of the Peoples Act, an appeal lies to the Supreme Court.

The said provisions contain a non obstante clause and is in the following terms:

Section 116-A Appeals to Supreme Court.--(1) Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the Supreme Court on any question (whether of law or fact) from every order made by a High Court u/s 98 or Section 99.

(2) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the High Court u/s 98 or Section 99.

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

35. The Supreme Court in *Upadhyaya Hargovind Devshanker Vs. Dhirendrasinh Virbhadrasinghji Solanki and Others*, , had been considering a case as to whether an L.P.A. lies to a Division Bench from an interlocutory order passed by a single Judge. In that case, it was held that the High Court while adjudicating upon an election dispute exercises its special jurisdiction conferred by virtue of Article 329(b) of the Constitution and having regard to the historic legislations and the limited extent of an appeal expressly provided by Section 116-A of the said Act, it was held that the right to prefer a Letters Patent is barred by necessary implication. Such is not the case here.

36. In terms of Section 110-D of the said Act, neither a finality has been given to an appellate order, nor the right of further appeal has been curtailed in any manner whatsoever.

Francis Bennion in his book *Statutory Interpretation* at page 747 states the law thus:

unless contrary intention appears, an enactment by implication, merit in principle or rule relating to jurisdiction, evidence or procedure (whether statutory or non-statutory) which prevails in the territory to which every enactment extends and is relevant to the operation of the enactment in that territory.

37. So far as the cases of this court in *Jaimangal v. State* 1989 BBCJ 245 and *Naya Dawakhana v. State* 1989 BBCJ 253 are concerned, the same have no application in the facts and circumstances of this case. In these cases, it was merely held that Section 5 of the Limitation Act has no application in an appeal before the statutory authorities.

38. The Limitation Act applies only to the civil courts and the courts exercising criminal jurisdiction and as such the statutory authorities which are neither the civil courts nor the criminal courts, the provisions of the Limitation Act would

have no application in relation thereto.

39. Similarly, in view of the fact that a Letters Patent Appeal also lies before the High Court from an order passed by the High Court in an appeal from the order of the Tribunal, it is not necessary for us to decide the question as to whether the Motor Accidents Claims Tribunal constituted u/s 110 of the Act is a court or a Tribunal.

40. However, it may be mentioned here that in the Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai and Another, it has also been held that Sections 110 to 110-F not only refer to procedural matters, but also deal with substantive rights.

41. In this view of the matter, it must be held that the Letters Patent Appeal is maintainable.

42. Coming to the merits of this case, it appears that the appeal had been preferred by the owner and the drivers of the vehicles. There is no doubt that the right of an appeal at the instance of the owners and the drivers of the vehicles is not circumscribed by any statutory provisions. Further the learned single Judge has also not assigned any reason whatsoever while dismissing the appeal in limine.

43. Having regard to the facts and circumstances of this case and the points involved in the appeal, in my considered opinion, the appellants ought to have been granted an opportunity of being heard on merits of the case with reference to the records of the Motor Accidents Claims Tribunal and, therefore, the matter requires re-consideration at the hands of this court again.

44. In the result, this appeal is allowed, the order dated 11.10.1988 passed in Miscellaneous Appeal No. 64 of 1988 (R) is set aside and the said appeal is admitted for hearing. However, keeping in view the fact that the appeal has been filed against the award passed in favour of a person who has allegedly become a permanently disabled person, we hope and trust that the appeal would be disposed of expeditiously.

45. Before parting with this case, we may mention that judicial notice can be taken of the fact that the final disposal of the claim petitions takes a long time. In this connection, it would be apposite to note the anguish expressed by the Supreme Court in the case of Bishan Devi and Another Vs. Sirbaksh Singh and Others, in the following terms:

(14) The instant case brings into focus the difficulties experienced by the dependants in obtaining relief before the Motor Accidents Claims Tribunal. The victim in this case Bhagwan Das was run over by a motor vehicle on the night between July 8 and 9, 1961, leaving behind him his wife Bishan Devi and four minor children. For eighteen long years they have been before courts asking for some compensation for the death of their bread-winner due to rash and negligent driving of a motor vehicle. One is tempted to remark that they would

have been better off but for their hope of getting some relief in courts. They not only had to spend their time in courts but also had to borrow to fight for their rights. It is common knowledge that such helpless and desperate condition is exploited by unscrupulous persons who manage to get away with the bulk of the compensation money if and when the claimants succeed in getting it.

(16) Due to inordinate delay in disposal of claim petitions before the Motor Accidents Claims Tribunal the badly needed relief to the claimants is not available for several years. Further time is taken in appeals. All along the dependants will have to carry on without any relief. It has been time and again pointed out by courts that insistence of proof of rash and negligent driving causes considerable hardship on the claimants.

(17) We may point out that repeated suggestions have been made by this court and several High Courts expressing the desirability of bringing a social insurance which would provide for direct payment to the dependants of the victim. This court in *Minu B. Mehta v. Balkrishna Ramachandra Nayan*, 1977 ACJ 118 has referred to the decision of the Kerala High Court in *Kesavan Nair Vs. State Insurance Officer* where the High Court expressed itself thus:

Out of a sense of humanity and having due regard to the handicap of the innocent victim in establishing the negligence of the operator of the vehicle a blanket liability must be cast on the insurer.

The Madras High Court in *Ruby Insurance Co. Ltd. v. Govindaraj AAO*. No. 607 of 1973 and 296 of 1974; decided on 13.12.1976, has suggested the necessity of having social insurance to provide cover for the claimants irrespective of proof of negligence to a limited extent, say Rs. 250/- to Rs. 300/- a month.

46. The Supreme Court thereafter referred to various other observations made by the different High Courts with regard to the difficulties faced by the claimants who had filed claim applications under the Motor Vehicles Act.

47. Taking thus this aspect of the matter into consideration, we hope and trust that the Parliament may take notice of the fact and make suitable amendments in the Motor Vehicles Act, 1988 making the appellate order a final one so as to bar a further appeal under the Letters Patent of the High Court.

48. This appeal is allowed with the aforesaid observations. In the facts and circumstances of this case, however, there will be no order as to costs.