
(2001) 03 GAU CK 0037
In the Gauhati High Court
Case No : MAC App. No. 58 of 1999

Indira Baheti

APPELLANT

Vs

Amit Kr. Nahata and Others

RESPONDENT

Date of Decision : 05-03-2001

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 150, 150(2)
Motor Vehicles Act, 1988 — Section 158(6), 160, 168

Citation : (2001) 3 GLT 489

Hon'ble Judges : R. Gogoi, J;J.N. Sharma, J

Bench : Division Bench

Advocate : D.C. Mahanta, T.J. Mahanta, A. Das and P. Bhattacharjee, for the Appellant; None, for the Respondent

Judgement

J.N. Sarma, J.—This appeal has been filed against the judgment dated 9.7.99 passed by the Member, MAC Tribunal, Golaghat in MAC Case No. 127/97. A claim case was filed by the widow of the deceased claiming an amount of Rs. 4,92,000/-. The learned member rejected the claim holding as follows: "In support of the claim, the claimant has submitted photocopy of one post-mortem report and nothing more, nothing less. The so-called post-mortem report is seen to have been signed by Civil Surgeon as it is apparent from the post-mortem form. There is a column remark by Civil Surgeon that column is not filled or signed by anybody. From the post-mortem report, we can assert where it was conducted. There is nothing to show who was that doctor holding the post-mortem examination. Whether he was attached to any hospital and if so what. No name or seal of the hospital is there in the so called post mortem report. We are, as such, not in a position to know where the postmortem was conducted, who was the doctor holding the same and to what hospital or any other station that doctor was attached. The post-mortem report was not signed by the Civil Surgeon as it is clear from the Form itself. The photocopy of the post-mortem report is not issued by any doctor. It was issued and certified to be true copy by one Inspector in-charge of some Alkipurduwar Police Station. It is not known who

authorised that police to certify the post-mortem report to be a true copy.

Except that photocopy of the post-mortem report, there is nothing in that case u/s 158(6) of the M.V. Act. As soon as a motor vehicle accident occurs, the police shall submit the necessary information to the claims tribunal under Form 54 required by Rule 150 of the Act. The same can be obtained by any person eligible to claim compensation u/s 160 upon payment of fee Rs. 10/- as provided under Rule 150(2) of the Act. It is found that this case has been filed with this photocopy of post-mortem report issued by police submission of the Form 54 as required u/s 158(6) and Rule 150(2) of the Act is mandatory. Even if the Form is not filled up by police if all necessary particulars are certified by police in original, then also there may not be any bar in entertaining a claim application. In the present case as has been "discussed above, there is nothing. There is no actual post-mortem report and there is no police report also. Accordingly, I find that this claim petition is not maintainable. Rupees 50,000/- has already been ordered to be paid to the claimant under. No fault liability clause" by my predecessor. That cannot bind the Court to allow or dismiss a claim petitions finally after going through the relevant materials on record. I accordingly, dismissed this claim petition." 2. A claim petition cannot be thrown out in the manner as done by the tribunal. This is a beneficial piece of legislation and for the good of the society and that aspect of the matter must be borne in mind by the Tribunal. If any authority is required for this proposition of law, one may have a look at N.K.V. Bros. (P) Ltd. Vs. M. Karumai Ammal and Others, where the Supreme Court pointed out that a claim should not be thrown out by resorting to technicalities. If the case is false of course of question will be altogether different. But that is what has been done by the Tribunal. If in the post-mortem a particular form is not filled up by the Civil Surgeon for that no fault can be found with the claimant and when the original post-mortem report is not given to the claimant what the poor claimant can do. The poor claimant obtained the photocopy of the post-mortem report and produced it. It is not the finding of the tribunal that the post-mortem report is a false one. The post-mortem report was duly certified by the police authority to be true copy and inspite of it that was not accepted by the Tribunal.

3. Next comes to the applicability of Section 158(6) of the Motor Vehicles Act Section 158(6) was inserted by the amendment with effect from 14.11.94 and it was inserted by the Legislature for the benefit of the victim of accidental death and not to use as a handle or tool or weapon to throw out a claim, but that is what was done by the learned tribunal.

4. In that view of the matter, the judgment of the learned tribunal shall stand quashed. The appeal is allowed and the matter now shall go back to be learned Member, MAC Tribunal, Golaghat to decide the matter on merit without resorting to any technicality and to decide the quantum of compensation payable to the claimant according to mandate of Section 168 of the MV Act. This shall be done within a period of four (4) months from the date of receipt of certified copy of

this order. The claimant shall appear before the Tribunal on 28.5.2000 to receive further instruction.