
(1987) 07 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Revision Petition No. 432 of 1987

Jagdish Goods Transport Co.

APPELLANT

Vs

United Insurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 10-07-1987

Acts Referred:

Motor Vehicles Act, 1988 — Section 110F

Citation : (1988) ACJ 187 : (1987) RLW 651 : (1987) 2 WLN 768

Hon'ble Judges : D.L. Mehta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dinkar Lal Mehta, J.—This revision petition is directed against the order of learned Additional Distt. Judge No. 2, Bharatpur, dated 25th March, 1987 in Civil Suit No. 32/1986.

2. Defendant petitioner moved an application in the Court below and submitted that in the light of the provisions of Section 110-F of the Motor Vehicles Act, the suit filed by the plaintiff respondents Cannot be entertained and decided by the court below. It was further contended that the claim will have to be filed before the tribunal. The tribunal will register it and thereafter it will be referred to civil court. It was submitted by Mr. Soral, learned Counsel for the petitioner that the word "refer" as used in Section 110-F cannot be equated with the word "presentation of or filing". It was contended by Soral, learned Counsel for the petitioner that the suit has been filed before the Tribunal as such the provisions of Section 110-F has been violated. In support of his contentions he has also cited before me the case of Orissa High Court reported in AIR 1980 Ori 250 Central Road Transport Corpn. and others, Orissa High Court took the view that the expression "refer the claim to a civil court" cannot be equated with "file a suit in the civil court". Section 110-F reads as under:

Section 110-F-Bar of jurisdiction of civil courts—"Where any claim 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, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the civil court.

The proviso of Section 110(1) also reads as under:

Section 110-Claims Tribunals-(1) A State Government may by notification in the Official Gazette constitute one or more Motor Accident Claims Tribunal) for such areas may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to persons arising out of the use of motor vehicles or damages to any property of a third party so arising, or both:

Provided that where such claim includes a claim for compensation in respect of damage to property exceeding rupees two thousand, the claimant may, at his option, refer the claim to a civil court for adjudication, and where a reference is so made, the claims Tribunal shall have no jurisdiction to entertain any question relating to such claim.

3. The proviso provides that where such claim includes a claim for compensation in respect of the damage to the property exceeding Rs. 2,200/-the claimant may at his option refer the claim to a civil court for adjudication.

4. Section 110-F merely deals with the change of the forum and process of the claims Tribunals substituting the civil court and its process. Plain reading of Sections 110 to 110F of the Act, clearly reveals that the same are self sufficient and even a provision of appeal is provided in these sections. Final verdict given u/s 110 or 110F allows the claimants to seek compensation in respect of the accident involved in the motor vehicles and award given by the tribunal is appealable therefore, it cannot be said that the provisions of the Motor Vehicles Act, are mere different procedure. I am of the view that a person is vested with the rights to claim the compensation and therefore, the provisions cannot be said to be mere different procedure. These provisions confers substantive rights on the parties who are before the tribunal of the civil court under the provisions of the Motor Vehicles Act.

5. It will not be out of place here to mention that the proviso gives the rights to the claimants at his option to refer the claim to Civil Court for adjudication. Thus, the substantive right is vested in the claimant to choose the forum where the claim should be adjudicated. This right is not vested in the court and the claimant may compel the tribunal to proceed with the case and may exercise the powers vested in him. Thus, the substantive right of seeking a redress or remedy by way of adjudication in selecting the forum and process of the court is vested in the claimant himself. This point has not been discussed by the Orissa High Court (supra) in its judgment referred above. Apart from that what meaning should be give to the word "refer" needs interpretation by this court in the

context in which it has be used in Section 110 of the Act. A party has a right to refer the claim but the tribunal has no right to refer the claim. The distinction should be drawn while interpreting the word "refer" as used in Section 110F of the proviso of the Motor Vehicles Act, referred above. Section 110F(1) proviso of the Act, does not provide that the tribunal shall refer the case to the Civil Court at the request of the party. It only provides that the claimants shall refer the case to the Civil Court. The word ""refer" as used in Webster's Third Edition Dictionary, means to submit or entrust one self for aid or advice. Thus, the claimant by presenting the suit submits the claim for the aid advice and adjudication, to the civil court and for that purpose it can be equated with a right of presentation for adjudication of the claim. The word "refer" connotes that the party is submitting to the jurisdiction for a particular purpose and this goes to show that the claimant has a vested right to refer the case to the Civil Court and this option has been given to the claimant only. B implication this means that the claimant should choose the forum and if he chooses the forum of the Civil Court it means to refer a case by the claimant to the Civil Court for adjudication which is his right.

6. Even if it is assumed that the contention of Mr. Soral learned Counsel for the petitioner is correct, though I do not agree with the submissions made by him, he is not going to suffer in any way. It is a technical process that once we will go before the tribunal and will make a prayer to refer it to Civil Court then the tribunal will pass the necessary order and the claim will go to the Civil Court. The beneficial legislation has been enacted by the legislature with a view that it should be disposed of at the earliest and the claimant should get the compensation without any delay. The technicality should not come in the way of early disposal. The law should be interpreted in such a way which may not be the shelter for those who want to delay the disposal of the suit. For the reasons mentioned above, I do not find any force in the submissions made by Mr. Soral, learned Counsel for the petitioner.

7. In the result, the revision petition is hereby rejected.