
(1983) 08 KAR CK 0009
In the Karnataka High Court

K.S.R.T.C.

APPELLANT

Vs

P.S. Lakshminarayana Shetty and Others

RESPONDENT

Date of Decision : 11-08-1983

Acts Referred:

Motor Vehicles Act, 1988 — Section 110 (1)
Small Causes Courts Act, 1882 — Section 18

Citation : (1985) 1 ACC 23

Hon'ble Judges : G.N. Sabhahit, J

Bench : Single Bench

Judgement

G.N. Sabhahit, J.

1 The plaintiff sued the owner, driver and insurer of the vehicle in question for damages to property caused in a motor accident. He claimed Rs. 7,381.30 P. He filed the suit in Small Causes Court, Bangalore City, at S.C. No. 860/82.

2. The learned Judge took the view that since damages resulted out of a motor accident the claim for damages should have been made before the Claims Tribunal concerned. He further held that since the decree was to be given on the basis of the Insurance Policy, the Small Causes Court had no jurisdiction to entertain the suit. In that view, he directed that the plaint be returned for presentation to proper court. Aggrieved by the said order, the present Revision Petition is instituted u/s 18 of the Small Causes Court Act before this Court.

3. The learned Counsel appearing for the revision petitioner strenuously urged before me that, when the damage claimed is for more than Rs. 2,000/-, it is not necessary that the petition for damages should be made before the Claims Tribunal when it concerns damages to property alone. The submission has substance. It is supported by the provision to Section 110(1) of the Motor Vehicles Act, It reads :

Provided that where such claim includes a claim for compensation in respect of damage to property exceeding Rs. 2,000/- the claimant may, at his option, refer

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.

"Refer the claim" in the context would only mean that the claimant may refer the claim to a Civil Court by instituting a suit for damages, in the absence of any prescribed procedure. Thus, it is clear that when the damages claimed with regard to the property exceed Rs. 2,000/- the option lies with the claimant to institute the action either in a Civil Court or before the Claims Tribunal. Hence, there is no substance in the observation of the learned Small Causes Judge that the claim should have been made before the Claims Tribunal.

4. The learned Small Causes Judge, however, has further pointed out that in the Schedule to the Karnataka Small Causes Courts Act, suits which are not cognizable by the Small Causes Courts have been stated (vide Section 8) and in para 31 therein, a suit on a policy of insurance has been specifically excluded from the jurisdiction of the Small Causes Courts. In the instant case, damages are claimed also against the Insurance Co., on the basis of the Policy issued by it. Hence, the jurisdiction of Small Causes Court is ousted. That being so, the final order passed by the learned Judge ordering return of the plaint since the Court has no jurisdiction to entertain or try the suit in question is quite legal and proper. That being so, there is no arguable point in this petition and the same is dismissed in limine.