

(1954) 08 CAL CK 0023

In the Calcutta High Court

Case No : Civil Revn. Case No's. 2277 and 3327 of 1953

Maniklal Upadhya

APPELLANT

Vs

Ramesh Chandra Acharya
 Ramesh Chandra Acharya
Vs Maniklal Upadhya

RESPONDENT

Date of Decision : 24-08-1954

Acts Referred:

Limitation Act, 1908 — Article 102, 7, 60

Citation : AIR 1955 Cal 290 : 59 CWN 466 : (1956) 2 ILR (Cal) 210

Hon'ble Judges : K.C. Das Gupta, J;Debabrata Mookerjee, J

Bench : Division Bench

Advocate : Joy Gopal Ghose, in No. 2277 and Anukul Chandra Datta, in No. 3327, for the Appellant; Joy Gopal Ghose in No. 3327 and Anukul Chandra Datta in No. 2277, for the Respondent

Judgement

K.C. Das Gupta, J.—These two Rules arise out of a suit brought by a person for recovery of arrears of salary for his service as the driver of a motor car. The plaintiff's claim was at the rate of Rs. 75/- per month. The defendant pleaded that the salary was at the rate of Rs. 60/- per month, that nothing was due and that the claim was barred by limitation. The learned Munsif rejected the plea of payment and decreed the suit at the rate of Section 60/-. He d(sic) not, it appears, consider the plea of limitation.

2. The only question raised in the Rule obtained by the plaintiff (Civil Revn. No. 3327 1953) is that the Munsif was wrong in conclusion that the salary was at the rate of Rs. 60/-month and not at the rate of Rs. 75/- per mo(sic) That however is a question of fact and even the Munsif has come to a wrong conclusion of acts, that would not justify our interfering with this order u/s 115, Civil F. C. This Rule must therefore be discharged.

3. The Rule obtained by the defendant (Civil Revn. No. 2277 of 1953) raises an important question of limitation. There are at present two Articles in the First Schedule to- the Limitation Act dealing with suits for wages. Another Article,--

Article 4-- , which provided a period of 6 months for some of such suits was repealed by Act 20 of 1937. The two Articles which are now on the Statute Book on this question are Articles 7 and 102.

Article 7 provides one year's limitation for suits for wages of household servants, artisans, labourers, the time running from the date when the wages accrue due. Article 102 provides three years' limitation for suits "for wages not otherwise expressly provided for by this Schedule." Here also, the time is to run from the date when the wages accrue due.

The question, therefore, is whether Article 7 or Article 102 is applicable to the present suit. Article 7 will be applicable if the driver of a motor car falls within the description of a household servant, artisan or labourer. It is not, and it cannot be, seriously contended that a motor driver is either a household servant or a labourer. The question remains whether he is an artisan. In two cases, one of which is a decision of this Court, the view was taken that a motor driver is an artisan within the meaning of Art; 7 of the First Schedule to the Limitation Act. The earlier of these decisions was in the case of -- "R. Sewaram v. Lachminarayan", AIR 1927 Rang 279. In that case Maung Ba J. said:

"According to Webster's Dictionary an artisan is one trained to mechanical dexterity in some mechanical art or trade. A motor car driver is required at least, to know how to start the car, how to steer it and how to stop it. For such purposes he must possess some skill in manipulating the different parts of the mechanism. I think, he should be included in the category of an artisan. I also cannot see any reason why he should be treated differently from a household servant or a labourer and given the benefit of a longer period under Article 102...."

In the case of -- Khagendra Nath Chatterjee Vs. Kanti Bhushan Banerjee, Mitter J. had to consider whether Article 7 was applicable to a suit brought by a person for wages as a bus driver. His Lordship concluded that a bus driver was an artisan within the meaning of Article 7 and so that Article was applicable. His Lordship observed:

"I do not agree in the contention that a bus driver is a household servant. In my judgment, a bus or motor car driver is an artisan. He must know something of the mechanism of a (sic) car, must know how to start it, to stop it and to (sic) a steer it. He is supposed to attend to the car (sic) emergent cases when the mechanism goes a somewhat out of order during a journey. In this VIEW OF THE MATTER I hold that he is an artisan Within the meaning of Article 7..."

With great respect to the learned Judges I am unable to agree that a motor car driver is an artisan within the meaning of Article 7 of the Schedule. The word "artisan" has not been defined in the Limitation Act This word is also used in Section 60, Civil P. C., but in that Statute also the word has not been defined. "Stroud's Judicial Dictionary also gives "artificer" as the meaning of "artisan". While the word "artificer" has generally been considered to mean a "skilled

workman", it was pointed out in the case of -- "Palmer v. Snow", (1900J 1 QB 725) that every skilled workman, is not an artificer and that an artificer is one who makes something as distinguished from one who does something. In that view it was decided that a hair-dresser is not an artificer because he only does something. I do not think that it can be doubted that the word "artisan" means a workman who makes something, that is, the same as an artificer as defined in the case of (1900) 1 QB 725.

4. There can be no doubt however that the word "artisan" is also used often as synonymous with a mechanic. This is also clear from the meaning of the word as given in the Webster's Dictionary and the Oxford Dictionary and forms the basis of the decisions mentioned above and also other decisions in which the question of "artisan" was considered -- "Navalmal v. Mangaldas", AIR 1919 Sind 54 (D).

5. I therefore respectfully agree with Maung Ba and Mitter JJ.- that the word "artisan" as used in Article 7 of the First Schedule to the Limitation Act includes a mechanic. I am unable to agree, however, that a motor driver is necessarily a mechanic. In my judgment, when we say of some person that he is a mechanic, we mean that he has such special knowledge of some mechanism as to enable him to operate it and to set it right when it goes wrong. I do not think that the mere fact that a man can start a machine or control it is enough to give him the name of a mechanic. An electric fan is an intricate mechanism; almost everybody can set it in motion, can control its motion by operating the regulator and can stop it. Will a man who can do these things be called a mechanic? The answer must be an emphatic "no". When the fan goes out of order, we send for a "mechanic". That makes it clear that it is only the person who understands sufficient of the working of the mechanism as to handle its parts properly in order to set it right when it goes wrong, that can be called a mechanic.

6. The driver of a motor car is not, in these respects, essentially different from the man who switches on an electric fan. He can start the engine, put it into gear, steer it, stop it, and part it. Ordinarily, he can also change a damaged tyre or tube. Suppose however the carburettor goes wrong or the pistons have refused to work. Many, if not most, drivers of motor cars will be able to do nothing in such emergencies. One particular driver may happen to have sufficient skill to be able to repair a defect in the mechanism but most will not have the requisite knowledge or skill. These persons will not, because of such lack of knowledge or skill cease to be drivers of motor cars but they are clearly not mechanics. It is reasonable to hold that while the driver of a motor car may also . happen to be a mechanic, such a driver is not necessarily a mechanic.

7. My conclusion therefore is that the driver of a motor car is not an "artisan" within the meaning of Article 7 of the First Schedule to the Act of Limitation. Consequently, Article 7 is not applicable to the present case, but Article 102 applies and the suit was within time.

8. The Rule is accordingly discharged. There will however be no order for costs.

Debabrata Mookerjee, J.

9. I agree.