

(2013) 04 TP CK 0007

In the Tripura High Court

Case No : W.P (C) No. 135 of 1993

Menaka Paul Vs State of Tripura and Others

Date of Decision : 04-04-2013

Acts Referred:

Citation : (2013) 04 TP CK 0007

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : S.M. Chakraborty and Mr. S.K. Dutta, for the Appellant; N.C. Pal, GA, Mr. P. Gautam and Mr. T.D. Majumder, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.—By this writ petition, filed under Article 226 of the Constitution of India, the petitioner above named, inter alia prayed for directing the respondents and/or each of them to pay her adequate compensation for the death of her bachelor son, Haradhan Pal, aged about 21 years, due to motor vehicle accident occurred on 09.04.1991 at about 8-00 a.m. on Agartala-Airport Road near Abhoynagar Hindi School alleging that the accident occurred because of rash and negligent driving of the vehicle and identity of the vehicle could not be ascertained for the negligence on the part of the police authority in course of investigation of the case. It is inter alia stated in the Writ Petition that Haradhan Pal, son of the petitioner, aged about 21 years, a businessman by profession, was passing through the Airport Road riding a bicycle on 09.04.1991 at about 8-00 a.m. and at that time, a vehicle having fake number plates one in the front and the other in the rear side of the vehicle, being driven most rashly and negligently with abnormal high speed, knocked down Haradhan in his left side of the road and as a result, Haradhan received severe injuries and died on 12.04.1991. The vehicle also knocked down two other women and one of whom died on the spot and the other was severely injured. It has also been alleged that the vehicle was probably carrying goods for smuggling purpose and therefore, it was driven so rashly and negligently, and after the accident the driver and other person who might be in the vehicle fled away from the spot and the local people

being grossly furious because of the ghastly accident, set it to fire and the vehicle was completely gutted. The registration Nos. of the vehicle since was completely gutted could not be ascertained by the police. It has been alleged that police would ascertain Engine number and Chasis number of the vehicle had they seized the remains of the vehicle but police negligently dealt with the matter and in course of investigation of the case failed to ascertain the Engine number and Chasis number of the gutted vehicle and as a result, the owner, insurer, and driver of the vehicle could not be ascertained for filing a claim case under the provisions of the Motor Vehicles Act.

On the basis of an FIR lodged after the accident, East Agartala P.S. Case No. 06(4)/91 under Sections 279 /338 /304(A) of IPC was registered against the driver of an unknown jeep but after investigation, police submitted final report stating the fact of accident as true but wanting in evidence and the final report was accepted. It has been alleged that since the owner and insurer of the vehicle could not be ascertained for the laches on the part of the State agency, this Court should direct the State respondents to pay adequate compensation to the petitioner.

2. Respondents No. 1, 2, 3 and 4 contested the case by filing counter affidavit inter alia contending that the accident occurred because of rash and negligent driving of the jeep vehicle which knocked down two women one of whom died on the spot and the other was severely injured and also knocked down the son of the petitioner namely Haradhan Pal and after the accident, on the basis of an FIR lodged by one Tilak Ram Pradhan, husband of a deceased woman namely Smt. Manu Pradhan, East Agartala P.S. Case No. 6(4)/91 under Sections 279 /338 /304(A) IPC was registered Immediately after the accident the driver fled away and a furious agitating mob from the neighbourhood gathered in the spot, looted the articles of the vehicle and set it to fire which was completely gutted. The agitated mob started road blockage and police after arrival in the spot tried to pacify the mob to restore law and order but in the meantime, the burnt vehicle was broken to pieces and those were also shifted from the spot. In course of investigation, police tried to find out the identity of the vehicle but even could not trace out the Engine number and Chasis number of the burnt vehicle since the vehicle parts after it was grossly damaged taken away and therefore, could not ascertain the identity of the vehicle, its driver, owner and insurer etc. Therefore, after investigation police submitted final report before the learned Chief Judicial Magistrate, West Tripura, Agartala and the Final report was accepted on 17.03.1994. There was no negligence or laches on the part of the police in the matter of investigation and so, the State respondents cannot be held responsible for making any payment of compensation.

Other respondents did not file any counter affidavit.

3. Heard learned Sr. counsel, Mr. S.M. Chakraborty assisted by learned counsel, Mr. S.K. Dutta for the petitioner. Also heard learned G.A., Mr. N.C. Pal for the State respondents and learned counsel, Mr. P. Gautam for the respondent

Insurance Company. The Union of India (respondent No. 5) chosen to remain absent.

4. Record shows that on 07.09.99 police case diary was produced but subsequently it was taken back by the learned counsel of the respondent Nos. 3 and 4 on 10.09.99. Order passed on 10.09.99 is relevant for the purpose of decision of this writ petition which reads thus:--

10.09.99

Heard Mr. S. Deb, learned senior counsel appearing for the petitioner, assisted by Mr. S. Dutta.

Also heard Mr. BR. Bhattacharjee, learned Advocate General, Tripura, assisted by Mr. TD Mazumdar, learned State-counsel.

This is a case in which the son of the petitioner has been killed in a motor accident and the identity of the motor vehicle causing the accident has not been properly ascertained by the police.

In course of hearing, it appeared that section 161 of the Motor Vehicles Act, 1988, provides for payment of compensation by the General Insurance Corporation of India in respect of death of persons resulting from hit and run motor accident, i.e. in cases in which the identity of the motor vehicle causing the accident could not be ascertained inspite of reasonable efforts for the purpose. Such payment of compensation by the General Insurance Corporation of India however has to be made in accordance with a scheme notified by the Central Government u/s 163 of the Act, 1988.

Learned counsel for the parties are unable to apprise the court as to whether such scheme has been framed by the Central Government u/s 163 of the Act for payment of compensation by the General Insurance Corporation of India u/s 161 of the Act in the case of hit and run motor accident.

For these reasons, I direct that the Union of India represented by the Secretary, Ministry of Surface Transport (MOST), New Delhi be impleaded as respondent No. 5 and the General Insurance Corporation of India as respondent No. 6. Mr. Dutta, learned counsel for the petitioner will furnish the address of the General Insurance Corporation of India for the purpose of issuing notice to the said respondent No. 6 within 32 days and office will issue notice to the said respondent No. 6 by Regd. Post with A/D. Petitioner shall take steps accordingly.

So far as Union of India represented by the Secretary, MOST, New Delhi (respondent No. 5) is concerned, notice be served on the learned Senior Central Government Standing counsel by Mr. Dutta, learned counsel for the petitioner by next week.

The notice is made returnable within a month.

The matter be listed for further hearing in the week commencing 29.11.99 as

part-heard.

The State of Tripura will file its counter-affidavit in the meanwhile.

5. The writ petition was disposed of by an order-dated 19.02.2002 in absence of the petitioner, after hearing the learned counsel of the respondents and the impugned order reads thus:--

19.02.2002

Heard Mr. T.D. Majumder, Learned Counsel for the respondents. None appears for the petitioner,

In view of the order passed by this Court on 10.09.99, actually the matter regarding claim of the petitioner stood answered pending the ascertainment of procedure and forum where to be moved and in what manner.

The state respondent has filed a copy of the scheme framed on the principle of "hit and run" u/s 163 of the M.V. Act, 1988 and that scheme is called "solatium Scheme, 1989". According to Section 161 of M.V. Act, the petitioner is entitled to be paid an amount of Rs. 25,000/- for the death of his son and that amount is to be paid on an enquiry to be made under aforementioned solatium scheme of 1989. The petitioner is to make an application to the "Claims Enquiry Officer" means the Sub-Divisional Officer concerned in Form-I along with duly filled discharge receipt in Form-II. The amount of compensation is to be debited from the account of General Insurance Co and I am told, in Tripura the National Insurance Co is acting as nominee of the General Insurance Company for the said purpose. Though under the scheme, the application is to be made within a period of six months, but there is also provision for entertaining the petitioner after six months, but not after twelve months from the date of accident.

In view of Section 161 of the M.V. Act, the provisions of Section 166(1) shall apply for the purpose of making application for compensation under the aforesaid scheme. Prior to 1994 amendment, there was limitation prescribed for filing a claim petition u/s 166 of the M.V. Act and having borrowed that prescribed limitation from Section 166 of the MV Act, the scheme also prescribed limitation in Para-20. But once limitation has been wiped out with effect from 14.11.94 by way of Motor Vehicles Amendment Act, in my considered opinion, the limitation prescribed in Para 20(2) of the scheme has become inoperative.

In that view of the matter, the petitioner may file application before the Sub-Divisional Officer, Sadar within whose jurisdiction the accident happened, seeking compensation under the scheme called Solatium Scheme of 1989 in the prescribed forms within a period of one month from today.

With these observations and direction, the petition is disposed of.

A copy of the order be furnished to the petitioner.

6. The petitioner challenged the order dated 19.02.2002 by filing a writ appeal

No. W.A. 31 of 2011 before the Division Bench of this Court and the appeal was allowed by order dated 20.03.2012 observing thus:--

20.03.2012.

...Upon perusal of the impugned order, dated 19.02.2002, passed in WP(C) No. 135 of 1993, and upon hearing the learned counsel for the parties concerned, we notice that the order, dated 19.02.2002, was passed deciding the writ petition on merit, while the learned counsel for the writ petitioner was absent. In a case, where the writ petitioner and the writ petitioner's counsel is absent, the writ petition can be dismissed for default, but it cannot be decided on merit. To this extent, the decision, rendered by the order, dated 19.02.2002, disposing of the writ petition, on merit, is not sustainable.

We, therefore, set aside the order, dated 19.02.2002 aforementioned....

7. The order passed on 10.09.99, reproduced above, was not challenged. Pursuant to that order, on 19.02.2002 the State respondents placed on record a scheme formulated by the Central Govt. under Sub-section (1) of Section 163 of Motor Vehicles Act, 1988 and taking into that scheme under consideration the impugned order dated 19.02.2002 was passed. In the writ appeal, order dated 19.02.2002 was set aside only on the ground that the petitioner was absent on that day and the writ petition was disposed of on merit in absence of the petitioner but merit of order dated 19.02.2002 was not touched.

8. In her writ petition, the petitioner alleged negligence in the investigation of the police case particularly alleging that the burnt remains of the vehicle was not seized by the police and had the steel body of the burnt vehicle seized, the Engine No. and Chasis No. of the vehicle could have been identified and thereby the owner, driver and insurer of the vehicle could have been ascertained. In support of the allegation, the petitioner produced no evidence. In a writ case the pleadings and or allegations is to be supported by evidence to be adduced by the writ petitioner but in support of her contention, the petitioner adduced no scrap of evidence that the burnt remains of the vehicle (steel body) was available on the spot and police intentionally and/or negligently did not seize it.

9. The State respondents by filing counter affidavit stated that the vehicle was completely burnt. Agitating mob damaged the vehicle and made it to pieces and removed it from the spot. Police could not seize the burnt remains of the vehicle since on reaching the spot they were busy to first maintain law and order. This fact, as stated in para 10 of the counter affidavit filed on behalf of the respondent Nos. 1 and 2 and in Para 7 of the counter affidavit filed on behalf of the respondent Nos. 3 and 4 have not been countered by the petitioner by filing any re-joinder affidavit. So, the fact that the burnt remains of the vehicle were removed by the irate mob after damaging it to pieces as a result of which nothing could be seized by the police virtually remained unchallenged.

10. Now let us see whether there was any cause of action for filing the present

writ petition?

10.1 Learned Sr. counsel, Mr. Chakra-borty has submitted that the petitioner is the unfortunate mother of deceased Haradhan Pal, who admittedly died due to motor vehicle accident but she could not prefer a claim petition under the Motor Vehicles Act claiming compensation since the identity of the vehicle could not be ascertained by the State Agency because of their negligence in the matter of investigation of the police case and so the petitioner's right in approaching the Court for compensation has been infringed and hence, having no other alternative the petitioner has got the cause of action for approaching this Court by filing a petition in the writ jurisdiction.

10.2 On the contrary, learned G.A., Mr. Pal contended that there is nothing to show that any fundamental or legal right of the petitioner has been violated by any act or omission on the part of the State respondents. The petitioner could approach the appropriate Court/tribunal under the Motor Vehicles Act for compensation, whereas, without approaching the appropriate forum, the petitioner filed the highly prerogative writ having no cause of action for preferring the same and hence, it is liable to be dismissed.

11. I find no force in the argument advanced by learned Sr. counsel, Mr. Chakraborty. Except mere allegation that the police investigation was negligently done, there is no material at all to show that there was any negligence and it was intentional and deliberate. As already mentioned hereinabove, the petitioner did not counter the allegations made by the State respondents that the burn remains of the vehicle were not available for seizure, has not been controverted by the petitioner by filling any re-joinder affidavit. Further, for granting compensation a writ Court cannot be a proper forum to determine and award compensation. The petitioner was supposed to approach the appropriate Court/tribunal either under Motor Vehicles Act, 1988 or a Civil Court of appropriate jurisdiction. Merely making an allegation that the police investigation was negligent and therefore, this Court should exercise writ jurisdiction to award compensation without ascertaining damage for awarding such compensation, I think, the petitioner has chosen a wrong forum.

12. As already stated above, on 07.09.99, the State respondents produced the police case diary before this Court but that was taken back on 10.09.99 by the learned counsel of respondent Nos. 3 and 4. When the matter came up for hearing, this Court directed the learned Govt. Advocate to produce the case diary but learned Govt. Advocate submitted that the case diary was destroyed in the meantime and he produced certified copy of the order sheet and final report of East Agartala P.S. Case No. 6(4)/91 which was subsequently registered as GR 459/91 under Sections 279 /338 /304(A) of IPC. On going through the certified copy of the final report, I find that the final report was submitted by police on 09.04.92. In course of investigation, statement of a witness was also recorded u/s 164 of Cr.P.C. by the Magistrate. The final report was accepted by the learned Chief Judicial Magistrate on 17.03.94. The writ petition was filed on 19.5.1993. It

is, therefore, clear that the final report was pending for consideration before the Magistrate when the writ petition was filed. The petitioner produced no scrap of evidence in support of her contention made in the writ petition that there was negligence on the part of the Investigating Agency in seizing the burnt remains of the vehicle. The petitioner had the scope to challenge the final report before the Magisterial Court but did nothing whereas, she jumped to this Court with a writ petition for granting her compensation alleging negligence against the State respondents.

13. Since the petitioner could not make out any case that any fundamental or legal right has been violated by any act or omission on the part of the State respondents so, the petitioner had no cause of action for filing the present writ petition.

14. Whether negligence was/is imputable to the State respondents.

14.1 Negligence means breach of a duty caused by omission to do something which a reasonable man guided by those considerations which ordinarily regulate conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. Culpable negligence is acting without consciousness that illegal or mischievous effect will follow, but in circumstances which show that the actor has not exercised the caution incumbent on him, and that if he had, he would have had the consciousness. The imputability arises from the neglect of the civil duty of circumspection.

14.2 The Supreme Court in the case of the

Consumer Unit etc. Vs. Chairman and Managing Director, Bank of Borada reported in (1995) 2 SCC 150

has held that:

negligence is absence of reasonable or prudent care, which a reasonable person is expected to observe in a given state of circumstances.

In Black Law dictionary, negligence or negligence per-se, is defined as - conduct, whether of action or omission, it may be declared and treated as negligence without any argument or proof as to the particular surrounding circumstances, either because it is in violation of a statute or valid municipal ordinance, or because it is so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it.

Winfield has defined negligence thus -negligence as a tort is the breach of a legal duty to take care, which results the State or an individual. For this submission advanced with plausibility it appears necessary to determine how wide or narrow is the ambit of negligence in realm of torts. Can it be strictly compartmentalized? When the State was found reluctant in discharge of its duties or public responsibility then was it negligence alone or it was something more or less?

Negligence ordinarily means failure to do statutory duty or otherwise given rise to a damage, undesired by the defendants, to the plaintiff. Thus its ingredients are (a) a legal duty on the part of A towards B to exercise care in such conduct of A as false within the scope of the duty; (b) breach of that duty; (c) consequential damage to B"

14.3 In common parlance negligence means and implies "failure to exercise due care, expected of a reasonable prudent person." It is a breach of duty and negligence in law ranging from inadvertence to shameful disregard of the safety of others. In most instances it is caused by heedlessness or inadvertence, by which the negligent party is unaware of the results, which may fall from his act. "Negligence" is thus a breach of duty or lack of appropriate care in doing something, in short, it is want of attention and doing of something, which a prudent and a reasonable man would not do. (

M.S. Grewal Vs. Deep Chand Sood, (2001) 8 SCC 151

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15. Mr. Chakraborty, learned Sr. counsel contended that police would effectively made a search to find out the Engine and Chasis numbers of the burnt vehicle. No doubt, the number plates were burnt but definitely Engine number and Chasis number were not burnt. Since the police has failed to seize the burnt remains of the vehicle, it is to be presumed that the investigating police agency were negligent on the part of their duty.

16. Per contra, learned G A. submitted that in a writ petition, the petitioner is to submit evidence in support of her contention. No scrap of paper produced to show that the burnt remains of the vehicle were lying on the road and police intentionally and deliberately did not seize it. It is the definite stand of the respondents that the vehicle, after it was burnt by the irate mob, it was made to pieces and those pieces were also removed from the spot and police could not find out whereabouts of those burnt pieces of the vehicle to find out the Engine number and Chasis number.

17. In the absence of any definite evidence on the part of the petitioner that the burnt remains of the vehicle were available and police deliberately did not seize the same, a writ court cannot arrive at a conclusion that the police investigating agency were negligent on the part of their duty. For argument sake, if there were lapses in the investigation, that itself cannot be held to be sufficient to impose a tortious liability on the State respondents for any deficiency in the investigation. The final report submitted by the I.O. was accepted by the learned Chief Judicial Magistrate on 17.03.94. In the final report it was specifically stated:

...During investigation of the case, I.O., S.I. S. Debbarma made several attempts to find out the No. of the vehicle and particulars of the vehicle but could not. The case treated as S.R. and the case re-endorsed to me for investigation. I also made several attempts to find out the name and No. of the vehicle but could not.

All attempts were made to find out the name, number of both vehicle and driver of the said vehicle but could not. After investigation of the case submitted S.R. for an order. Authority passed an order on the S.R.

18. The above finding of I.O. in the final report submitted before the learned Chief Judicial Magistrate was not challenged by the petitioner rather; it was accepted by the learned Chief Judicial Magistrate. Had the petitioner was having with any evidence about the identity of the vehicle, the petitioner would challenge the final report before filing the present writ petition. The State would have been held responsible had there was failure on the part of the State in attaching the vehicle if it was found not insured and it was not with proper documents. In absence of any such infringement of a State's obligation, it would be grossly improper on the part of the writ Court to hold the State respondents as responsible for payment of compensation for the death of son of the deceased.

19. In the given facts and circumstances of the case, the petitioner failed to make out any case to show that the investigating agency were grossly negligent in the discharge of their duty in investigating the accident case of son of the petitioner.

20. What is a tortious liability? Whether in the given facts and circumstances, State respondents can held responsible for such tortious liability in a writ petition?

20.1 A tort means a civil wrong independent of contract. What we now understand by a tort is a breach of some duty between citizens, defined by the general law, which creates a civil cause of action. The duty must be founded in common right, not in a strictly personal relation such as those of husband and wife or parent and child. It must be a duty assigned by law, not dependant on the will of the parties; a breach of contract or of trust is not, as such, a tort, though it may also be a private right of action; the facts producing it may or may not also constitute an offence punishable by public authority.

20.2. Salmond has defined it as:

a civil wrong for which the remedy is a common law action in unliquidated damages and which is not exclusively the breach of a contract or the breach of trust or other merely equitable obligation.

20.3. Winfield has defined tortious law arising from breach of a duty primarily fixed by law; this duty is towards persons generally and each breach is redressable by an action for unliquidated damages. In general torts consist of some act done without just cause or excuse.

20.4. The law of torts exists for the purpose of preventing men from hurting one another whether in respect of their property, their presence, their reputations or anything which is theirs. Injury and damage are two basic ingredients of tort. Although, these may be found in contract as well but the violations, which may result in tortious liability are breach of duty primarily fixed by the law which while in contract they are fixed by the parties themselves. Further in tort the

duty is towards persons generally. In contract it is towards specific person or persons. An action for tort is usually a claim for pecuniary compensation in respect of damages suffered as a result of the invasion of a legally protected interest.

21. Mr. Chakraborty, learned Sr. counsel contended that a civil wrong has been committed directly by the owner and driver of the offending vehicle which was burnt down by the agitating mob. The State respondents are responsible for the infringement of their obligation since they could not find out the identity of driver and owner of the vehicle though there was a scope for doing so. According to Mr. Chakraborty, learned senior counsel since a citizen has suffered damage because of the negligence of some other private person, it is equally a responsibility of the State respondents to find out as to who are/were those private persons caused the injury and or wrong and since the State respondents failed to discharge their responsibility, they should be held responsible to pay compensation for the damage.

22. In my considered opinion, there is no substance in the submission of learned Sr. counsel, Mr. Chakraborty. Admittedly, the driver and owner of the alleged offending vehicle are/were the joint tort feasons. Simply because, in the investigation of the criminal case, the investigating officer could not find out the identity of joint tort feasons, for which they have assigned reasons, such reasons not controverted by the petitioner, it will be extremely remote to hold the State respondents as a tort feason along with the owner and driver of the offending vehicle. The tortious liability of the owner and driver cannot be shifted on the State respondents for any short or defect in the investigation of the police case.

23. Since there is no infringement of States obligation and since State cannot be termed to be a joint tort feason, no liability for payment of any compensation can be directed upon the State respondents.

24. Whether in a writ petition compensation for damage due to motor vehicle accident can be awarded?

The Motor Vehicles Act and Rules framed thereunder are self contained. In the case at hand, the identity of vehicle could not be ascertained by the petitioner. In the police case, on investigation, identity of the vehicle, its owner and driver could not be ascertained and the vehicle was completely damaged/gutted. The Motor Vehicles Act has prescribed provision in Section 163 as under:--

163. Scheme for payment of compensation in case of hit and run motor accidents:--

(1) The Central Government may, by notification in the Official Gazette, make a scheme specifying, the manner in which the scheme shall be administered by the General Insurance Corporation, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or

authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation.

(2) A scheme made under Sub-section (1) may provide that:--

(a) a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees or with both;

(b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of the Central Government, by such officer or authority to any other officer or authority;

(c) any provision of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund under the Motor Vehicles Act, 1939 (4 of 1939) as it stood immediately before the commencement of this Act:

Provided that no such retrospective effect shall be given so as to prejudicially affect the interests of any person who may be governed by such provision.

25. In view of the above provision and pursuant to the order passed by this Court on 10.09.99, a scheme formulated by the Central Govt. has already been placed on record. The petitioner would take advantage of that scheme. If the petitioner have further grievance against any other party including the State respondents, the petitioner would proceed according to the provisions prescribed under the Motor Vehicles Act or under the civil law. While the Motor Vehicles Act exhaustively dealing with the subject matter, it was improper for the petitioner in approaching this Court under Article 226 of the Constitution.

26. In course of argument, learned counsel of the petitioner referred the following case laws:--

i.

: II (1990) ACC 146 S.C., (Saheli, A Women's Resource Centre Through M.S. Nalini Bhanot & Ors. Vs. Commissioner of Police & Ors.)

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ii.

: 1992 ACJ 283 S.C., (Kumari Vs. State of Tamil Nadu & Ors.)

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iii.

: 1987 ACJ 783, (S. Vedantacharya & Anr. Vs. Highways Department of South

Arcot & Ors.)

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iv.

: 2002 ACJ 526, (Madhya Pradesh Electricity Board Vs. Shall Kumar & Ors.)

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v. 1958-68 ACJ (SC 5 Judges Bench) (State of Rajasthan Vs. Vidhyawati & Anr.).

vi.

Amar Jwala Paper Mills (India) Vs. State Bank of India, (1998) 8 SCC 387: AIR 1999 SC 3494

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27. Having gone through the above decisions, I find no relevancy of the facts of those reported cases to that of the present case to apply the ratio. It is a settled law that the facts of one case cannot be used as a precedent to determine the conclusion on the facts in another case.

28. The writ petition seeking compensation for the damage due to motor vehicle accident is devoid of any merit and hence it stands dismissed. I made easy the cost of the proceeding.