
(2007) 11 AHC CK 0036
In the Allahabad High Court

Mohd. Shahid

APPELLANT

Vs

Motor Accident Claims Tribunal and Others

RESPONDENT

Date of Decision : 27-11-2007

Acts Referred:

Motor Vehicles Act, 1988 — Section 174

Citation : (2008) 2 AWC 1649

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Tiwari, J.—List has been revised. None appears for the respondents. Heard counsel for the petitioner.

2. This writ petition has been filed challenging the validity and correctness of the order dated 28.7.2004, passed by the Motor Accident Claims Tribunal/Special Judge (E.C. Act). Meerut.

3. It appears that the petitioner met with an accident with Truck No. U.H.N. 2444 belonging to respondent No. 3 in which the petitioner received injuries. He filed claim petition before the Motor Accident Claims Tribunal, Meerut which was registered as M.A.C. No. 315 of 1998, Mohd. Shahid v. Khan Mohammad and Anr.

4. The Motor Accident Claims Tribunal allowed the claim vide its order dated 24.3.2001 awarding compensation of Rs. 1,12,000 with 9% per annum interest to the petitioner from the date of the filing of the claim petition till the realization of the amount against respondent No. 3.

5. The Tribunal further directed respondent No. 3 to pay the aforesaid amount within 30 days to the petitioner. It was not paid to the petitioner by the respondent, as such an application u/s 174 of the Motor Vehicles Act was moved by the petitioner on 29.5.2001 before the Motor Accident Claims Tribunal for recovery of the amount of compensation from respondent No. 3.

6. The application of the petitioner was registered as Misc. Case No. 11 of 2001 in M.A.C. No. 315 of 1998. The Claims Tribunal Issued recovery certificate with covering letter to the District Magistrate for recovery of the amount from respondent No. 3 and then it came to the knowledge that parentage, i.e., the father's name of respondent No. 3 was wrongly mentioned as Sodan Singh in the claim application pursuant to which recovery certificate had been issued and as such the recovery could not be made.

7. Thereafter the petitioner moved an amendment/correction application on 16.12.2002 for amending the name of the father of respondent No. 3 as Sahdeo Singh in the claim application which has been rejected by the Motor Accident Claims Tribunal vide order dated 28.7.2004. It is this order, which is impugned in the writ petition.

8. It is averred in paragraph 15 of the writ petition that the petitioner has made application only for correction of the father's name of respondent No. 3 in the array of parties and by the said correction the nature of the dispute would not change. However, the Tribunal has held by the impugned order dated 28.7.2004 that it has no power to correct the mistake at any stage even though it might have occurred due to accidental slip of the petitioner/ applicant.

9. The contention of the counsel for the petitioner is that such typographical error could be corrected by the Tribunal for doing substantial justice between the parties. He further submits that respondent No. 3 had appeared in the claim petition and contested the claim. It is not that the claim petition has been decided ex parte and that by correction of the parentage, i.e., father's name of respondent No. 3 in the array of the parties which was a typographical error, the nature of the claim would not change for it was proved before the Motor Accident Claims Tribunal as a matter of fact that the petitioner met with an accident with the vehicle owned by respondent No. 3 and was held to be entitled to compensation.

10. None has appeared for respondent No. 3. The claim allowed by the Tribunal is in the nature of a money decree which cannot be stayed on technical ground of typographical error in the parentage, i.e., father's name of respondent No. 3 in the array of parties. The Tribunal is not divested with power to correct the parentage, i.e., father's name of respondent No. 3 for letting the claim of the applicant defeated which has in fact been allowed by it. The Tribunal does not become functus officio for this limited purpose. The claim of a person cannot be defeated on such ground if he won his case from the Tribunal.

11. Since the petitioner is himself to blame for committing typographical error in the parentage, i.e., father's name of respondent No. 3 he may be permitted to correct the same on deposit of cost of Rs. 5,000 which he shall deposit in Mediation and Conciliation Centre, High Court, Allahabad within six weeks from today. He shall thereafter file receipt thereof before the Motor Accident Claims Tribunal alongwith certified copy of this judgment immediately on expiry of

aforesaid period.

12. For the reasons stated above, the writ petition is allowed and the impugned order is quashed. The matter is remanded back to the Motor Accident Claims Tribunal for passing appropriate orders on the correction/ amendment application afresh in the light of the observations made in the body of the judgment within two weeks thereafter.

No order as to cost.