

(1977) 02 MP CK 0007
In the Madhya Pradesh High Court
Case No : M.A. No. 148 of 1974

Mtutohar Singh

APPELLANT

Vs

Canara Motor General Insurance Company and Others

RESPONDENT

Date of Decision : 04-02-1977

Acts Referred:

Motor Vehicles Act, 1988 — Section 110, 110(1), 110(2), 110A

Citation : (1977) ACJ 280

Hon'ble Judges : S.S. Sharma, J;B.R. Dubey, J

Bench : Division Bench

Advocate : B.K. Samdani, for the Appellant; V.V. Dandavate and S.V. Dandavate, for the Respondent

Final Decision : Allowed

Judgement

B.R. Dnbe, J.—This, appeal arises out of an order dated 17-4-74, passed by the learned Member of the Motor Accidents Claims Tribunal, Indore in Claim Case No. 73 of 71, whereby the claim petition was dismissed on the ground that he had no jurisdiction to entertain the same.

2. The Appellant had filed a claim petition u/s 110A of the Motor Vehicles Act, for compensation amounting to Rs. 22,883.70 p. It was alleged that on 9-2-71, when the Appellant was driving his car MPE-2106 at about 9 a.m. the Respondent No. 3, while driving truck No. UPU-3991 rashly and negligently dashed against the Appellant's car with the result that it was badly damaged. The Appellant, therefore, claimed compensation on account of damage to the car, loss of profession for want of conveyance and mental agony said to have resulted from the said accident.

3. The petition was resisted inter alia on the ground that no bodily injury having been sustained by the Appellant in the accident, the claim petition was not maintainable before the Claims Tribunal for the damage caused to the car of the Appellant.

4. On the pleadings of the parties one of the issues framed by the Claims Tribunal was as under:

Has the Claims Tribunal no jurisdiction to try this claim case as the applicant has not suffered a bodily injury within the mischief of the State Government notification u/s 110 of the Motor Vehicles Act.

The Claims Tribunal treated this preliminary issues and held that the Appellant having not suffered bodily injury, the claim petition was not governed by the Government notification, which authorise the Claims Tribunal to adjudicate upon claims for compensation in respect of an accident involving the death of or bodily injury to persons only. Consequently, the claim petition was dismissed. The Appellant has therefore, come to this Court in appeal against the said order of the Claims Tribunal.

5. In our opinion, this appeal must be allowed. A Claims Tribunal is constituted u/s 110(1) of the Motor Vehicles Act. In the said section by virtue of Section 57 of the Act 56 of 1969, for the words "motor vehicles" the words "motor vehicles", or damages to any property of a third party so arising, or both," have been substituted with effect from 2-3-70. The date of accident in the instant case is 9-2-71 which is subsequent to the date on which the amended provision came into force. Therefore, the Claims Tribunal constituted u/s 110(1) of the Motor Vehicles Act has got the jurisdiction now to adjudicate upon claims for compensation in respect of accidents involving damages to any property of a third party as well. The district judges of the various civil districts were appointed as members of the respective Claims Tribunals constituted vide Notification No. 4484-239-IIA (2), dated 29th December, 1969 by the State Government in exercise of the powers conferred by Sub-section (1) and (2) of Section 110 of the Motor Vehicles Act. That notification was certainly published before the amendment in Sub-section (1) of Section 110 of the Act was brought into force. The question whether a Claims Tribunal constituted by the State Government under the aforesaid notification had jurisdiction to entertain a claim for damages to any property under the amended provisions directly came for consideration before this Court in Banwari Lal Vs. Vishnunarayan and Others, in which it was held as under.

Notification No. 4434-239-II-A, dated the 29th December, 1969 published in the Madhya Pradesh dated 9.1.70 is the relevent notification. All that this notification does is to constitute the Motor Accidents Claims Tribunal mentioned therein for the areas also specified in it. The notification, by itself does not specify the powers to be exercised by the Tribunals, the same being stated in Sub-section (1) of Section 110 of the Act. It is, therefore, clear that the Tribunals so constituted are to exercise the powers available to" them by virtue of Sub-section (1) of Section 110 of the Act as it exists at the relevant time when power has to be exercised. In this respect, it is the content of Sub-section (1) of Section 110 of the Act at relevant time which is decisive of the question and not the date of the notification by which the Tribunals have been constituted."

6. It may be pointed out that the instant claim with respect to the damage to the car of the Appellant was presented on 9-8-71, i.e. after that amended provision of Section 110(1) of the Motor Vehicles Act came into force. Thus the Claims Tribunal constituted by the Government notification dated 29th December, 1969 (supra) had the jurisdiction to entertain the claim. It may be pointed out that the State Government in continuation of the aforesaid notification dated 29th December, 1969 constituted inter alia First Additional Motor Accidents Claims Tribunal, Indore ; whose order is under appeal in the instant case, vide notification No. 6/23/73/A.2./II dated 9th January, 1974. The State Government in the M.P. Rajpatra dated 8th February, 1974 published a list of all the claim cases which were transferred to the First Additional Claims Tribunal, Indore, at page 253 of Part 3(1). In that list, Claim Case No. 73 of 71 between the present parties was also included. Thus, the First Addl. Claims Tribunal, to whom the claim case had been transferred was competent to exercise the same power which the Claims Tribunal who had entertained the claim case, could have under law exercised. Therefore, simply because in the aforesaid notifications of the year 1974 no reference as regards adjudication of claims relating to damages to any property of a third party has been made, that by itself would not oust the jurisdiction of a Claims Tribunal constituted u/s 110(1) of the Motor Vehicles Act. In our opinion, the view taken by this Court in Banwari Lal v. Vishnunarayan (supra), with which we are in respectful agreement, clinches the issue and we, therefore, hold that the First Additional Claims Tribunal, Indore, has got the jurisdiction to entertain the instant claim. Under these circumstances, the impugned order dismissing the Appellant's claim petition on the ground of non-maintainability, must be set aside.

7. In the result, this appeal is allowed, the order of the First Additional Claims Tribunal, Indore, is set aside and the case is remanded back for disposal on merits, in accordance with law. Looking to the facts of the case parties to bear their own costs as incurred.