
(1988) 11 MP CK 0012
In the Madhya Pradesh High Court

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Shanti Bai and Others

RESPONDENT

Date of Decision : 18-11-1988

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : (1989) 2 ACC 289

Hon'ble Judges : B.M. Lal, J

Bench : Single Bench

Judgement

B.M. Lal, J.—The order passed in this M.C.C. shall also govern the disposal of the connected Misc. Civil Cases No. 545/88; 546/88; 547/88; 548/88; 549/88; 350/88; 551/88; 552/88; 553/88; 554/88; 555/88; 477/88; 478/88; 479/88; 480/88; 481/88; 482/88; 483/88; 484/88; 485/88; 486/88; 487/88; 488/88; 489/88; 490/88 491/88; 492/88 493/88; 494/88; 495/88; 496/88 and 497/88.

2. In the intervening night of 3rd & 4th February 1988, an unfortunate and pathetic motor accident occurred in which, the bus bearing registration No. MPQ 7631, while carrying busload marriage party of Jaggi Family of Ranjhi, dived into the river Bailai on its way to Bhilai from Jabalpur. The bus in question belongs to M/s Caravs, 15, Civil Lines, Jabalpur and was driven by driver Hassan. As a result of the said accident, most of the baraties lost their lives.

3. The place of accident falls within the territorial jurisdiction of the Motor Accidents claims Tribunal, Mandla, therefore, number of claim petitions have been before the Motor Accidents claims Tribunal, Mandla.

4. All these Transfer petitions in hand have been filed by the Oriental Insurance Co. Ltd., Jabalpur with which the bus in question was insured, praying that the claim Cases filed before the Motor Accidents claims Tribunal, Mandla arising out of the said accident be transferred to the Motor Accidents claims Tribunal, Jabalpur, only on the ground of convenience of the parties. It is stated that all the parties, including the witnesses are residents of Jabalpur and, therefore, in

the interest of justice the claim cases be transferred to Jabalpur for final adjudication.

5. No doubt, the claimants are the arbiter litis and they have a right to choose their own forum and place of suing in consonance with to provisions of Part 1 of the Civil Procedure Code, and that statutory right is not lightly to be interfered with except on a very strong ground where the Court is satisfied that justice could more likely to be done between the parties expeditiously and conveniently, looking to and considering the conveniences of the parties as well.

6. The instant petition is only filed on the ground of conveniences of the parties. As such, it is submitted by the applicant that in the interest of justice the claim cases be transferred to Jabalpur,

7. While dealing with a transfer of a case u/s 24 C.P.C. where the claimant is arbiter litis, who has a right to choose his forum and place of suing, under such circumstances heavy duty casts upon the Court to see that the defending party is not allowed to choose the forum of his own convenience ignoring that of the other party who is arbiter litis. But at the same time, the Court should not lose sight of the aspect that transfer order can be made, if it fulfills the test of imparting justice to both the parties expeditiously, conveniently and without incurring heavy expenses.

8. Applying this yard-stick to the facts of the instant case, and in view of the fact that Shri Hafij-ullah learned Counsel appearing for the respondents/claimants, Shri N.P. Dubey learned Counsel appearing for the driver Hassan, Shri A.G. Dhande learned Counsel appearing for M/s Caravs have also in one voice submitted that they have no objection if the claim cases are transferred from Motor Accidents claims Tribunal, Mandia to that in Jabalpur. This case deserves to be transferred. In AIR 1955 44 (Nagpur) , this Court ruled that in the interest of justice considering convenience of parties, even at the instance of defendants, a case can be transferred. No doubt, in the instant case, the transfer petitions are moved by the non-claimants, but all the same, the claimants have not objection to the transfer.

9. From the discussions aforesaid, this M.C.C. is allowed and the MACT Case No. 28/38 pending before the Motor Accidents claims Tribunal, Manias is transferred to Motor Accidents claims Tribunal, Jabalpur with a direction to proceed with the claim case expeditiously and decide the question of ex-gratis compensation u/s 92-A of the Motor Vehicles Act, 1939 at the earliest opportunity. With similar direction the connected Misc. Civil Cases cited in the opening paragraph of this order, are also allowed and the respective claim cases are transferred to the Motor Accidents claims Tribunal, Jabalpur. Parties are directed to appear before the Motor Accidents claims Tribunal Jabalpur on 28-11-1988. No order as to costs.