

(1989) 03 MP CK 0009
In the Madhya Pradesh High Court

Oriental Insurance Company Ltd.

APPELLANT

Vs

Pritam Lal

RESPONDENT

Date of Decision : 30-03-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Motor Vehicles Act, 1939 — Section 110D, 92A

Citation : (1990) 1 ACC 571 : (1989) ACJ 1129 : (1989) MPJR 724 : (1989) MPLJ 580

Hon'ble Judges : G.G. Sohani, J;D.M. Dharmadhikari, J

Bench : Division Bench

Judgement

D.M. Dharmadhikari, J.

The present revision has been placed before the Division Bench on the reference by the learned single Judge Hon "ble Awasthy, J. The legal question referred for decision of the Division Bench is, Whether an order awarding compensation u/s 92-A of the Motor Vehicles Act, 1939, on the principles of "no fault liability" is appealable u/s 110-D of the said Act or only revision u/s 115 of the. CPC is tenable against the order granting compensation.

The learned Single Judge noticed that no consistent procedure was being following in this Court and in some cases (e.g. M.A. No. 50/85, decided on 24-2-1986, by Hon. Gulab Gupta, J.). The appeals were entertained against the order of compensation u/s 92-A of the Act and in some cases (e.g. CR.No.625/85, decided on 9-7-85 by Hon. S Awasthy, J.) revisions were entertained and decided. He has, therefore, referred the matter for decision of the Larger Bench. We have heard arguments advanced by Shri Prasash Naik, advocate for the petitioner and Shri Umesh Trivedi, Advocate, for the respondents. Both of them have contended that an appeal is tenable u/s 110-D against the order of compensation granted u/s 92-A of the Act.

After hearing the parties and looking into the relevant provisions we are also of the opinion that an appeal u/s 110-D of the Act would lie against the order of

compensation granted by the Claims Tribunal u/s 92-A of the Act and the question referred is liable to be answered accordingly. We may now state the reasons in support of our conclusion. Section 92-A of the Act is contained in Chapter VII-/? of the Act, which may be reproduced as under:

92-A. Liability to pay compensation in certain cases on the principles of no fault-
(1) Where the death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this Section.

(2) The amount of compensation which shall be payable under Sub-section (1) in respect of the death of any person shall be a fixed sum of fifteen thousand rupees and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of seven thousand five hundred rupees.

The whole chapter containing Sections 92-A to 92-E was introduced by Act No. 47 of 1982 effect from 1-10-1982. The object of providing compensation, on the principle of no fault, obviously, appears to be to make available quickly a minimum compensation to the victims of fatal accidents or serious accidents, irrespective of the tort committed or not and the compensation so determined should be made payable as an interim award before the Trial of the case and passing of a final award by the Claims Tribunal in accordance with the procedure contained in Section 110-B of the Act. Reading the provisions contained in Sections 92-A to 92-E show that in a claim case where there is compensation claimed both on the principle of no fault and also on the basis of tort or negligence, the fixed sum of compensation granted on the principle of no fault liability u/s 92-A is adjustable in the final award made after full trial of the claim case in accordance with Section HOB of this Act, The provision of payment of compensation on principle of no fault liability is thus an interim relief or interim award in a claim case in which compensation is claimed both on principle of no fault liability and on the basis of allegations of commission of negligence or tort.

It was pointed out to us by the counsel appearing for the parties that there may be cases where compensation is claimed from the Claims Tribunal only on the basis of no fault liability u/s 92A and in such cases the Claims Tribunal may be required to pass a final order of compensation u/s 92-A in accordance with the procedure contained in Chapter VII-A. It is true that the provisions contained in Chapter VII-A do not speak of passing of any award and only envisage passing of an order of compensation to the extent of Rs. 15,000/- in case of death and to the extent of Rs. 7500/- in case of permanent disability. It would, however, be reasonable to construe the order of compensation granted u/s 92-A as an award passed by the Claims Tribunal because any order of compensation or award passed by the Claims Tribunal under the provisions of the Act can be enforced only in accordance with the procedure contained in Section 110-E, Section 110-E

reads as under:

110-E. Recovery of money from insurer as arrear of land revenue - Whether any money is due from (any person) under an award, the Claims Tribunal may, on an application made to it by the person entitled to money, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

An order of compensation u/s 92-A of the Act has to be construed as an award as it has to be made enforceable in accordance with the provisions contained in Section 110-A. It is a settled principle of interpretation of statute that construction which makes it workable has to be preferred to one which makes it unworkable. If the order of compensation on principle of no fault liability u/s 92-A is not construed to be an award, it would make its recovery impossible in the absence of any provision of mode of recovery. The learned author former Chief Justice CP. Singh in his book Principles of Statutory Interpretation, Fourth Edition, at page 25, has referred to cases of the Supreme court in *M. Pentiah and Others Vs. Muddala Veeramallappa and Others*, and the decision of Lord Denning J. in *Rowcett Properties v. Buckincham County Council* 1960(3) A.H.E.R.503 and has stated as under:

"The courts strongly lean against a construction which reduces the statute to a futility. A statute or any enacting provision therein must be so construed as to make it effective and operative "on the principle expressed in the maxim : *it res magis valeat quam pereat*"....

Lord Denning approving Farwell, J., stated the principle thus:

But when a statute has some meaning even though it is obscure or several meanings, even though it is little to choose between them, the courts have to say what meaning the statute is to bear, rather than reject it as a nullity." And it was said by Lord Dunedin : "It is our duty to make what we can of statutes, knowing that they are meant to be operative, and not inept, and nothing short of impossibility should in my judgment allow a judge to declare a statute unworkable." The principle was reiterated by him in a later case where he observed : "A statute is designed thereof by a court should be to secure that object, unless crucial omission or clear direction makes that and unattainable.

Applying the above principle of statutory interpretation, the compensation granted on no fault liability u/s 92-A has to be both recoverable as well as appealable, otherwise the grant of such compensation would only be a paper order and would defeat the very object of legislation in introducing Chapter VII-A of the Act to provide speedy relief to the victims of motor accidents. The compensation, therefore, granted on no fault liability u/s 92-A is also therefore an award within the meaning of Section 110-B of the Act. The proviso added to Section 110-B by Act No. 47 1982 W.E.F. 1-10-1982 also indicates that compensation granted on fault liability u/s 92-A is also in the nature of an award by the Claims Tribunal, although the Claims Tribunal has to follow a summary

procedure in granting the same as contemplated in Chapter VII-A. Section 110-B read with the proviso is reproduced hereunder for reference:

110-B. Award of the Claims Tribunal - On receipt of an application for compensation made u/s 110-A, the Claims Tribunal shall, after giving the parties an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of Section 109-B, may make an award determining the amount of compensation which appears to be just and specifying the person or persons to whom compensation shall be paid; and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be.

Provided that where such application makes a claim for compensation u/s 92-A in respect of the death or permanent disablement of any person, such claim and any -another claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter VII-A.

After introduction of Chapter VII-A in the Act, the Claims Tribunal is empowered to pass two awards, one on the basis of no fault liability and the other on proof of negligence or tort.

On the construction placed by us on the provisions of Section 92-A read with the Section 110-B and 110-E, we are of the opinion that the order of compensation passed by the Claims Tribunal u/s 92-A is in the nature of passing of an award and the same is appealable u/s 110-D of the Act. We find support for our conclusion from the decision of Allahabad High Court reported in Sant Ram v. Suryk Pal 1986 ACJ. 202. The reference made by the learned Single Judge is, therefore, answered accordingly and the case may now be placed before the single Judge for decision on merits and for disposal of the same by registering it as an appeal u/s 110-D of the Act.