
(2001) 07 BOM CK 0030
In the Bombay High Court
Case No : Writ Petition No. 3474 of 1999

Purshottam Kamone

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 23-07-2001

Acts Referred:

Constitution of India, 1950 — Article 21, 216, 39
Motor Vehicles Act, 1988 — Section 165

Citation : (2001) 4 ALLMR 786 : (2001) 4 BomCR 633 : (2001) 4 MhLj 320

Hon'ble Judges : S.K. Shah, J; R.M. Lodha, J

Bench : Division Bench

Advocate : C.P. Sen, for the Appellant; A.G. Mujumdar and B.H. Dangre, A.G.P., for the Respondent

Final Decision : Allowed

Judgement

R.M. Lodha, J.—Rule. Returnable forthwith. Shri Mujumdar, the learned Assistant Government Pleader, waives service for the

respondents. By consent of the learned Counsel for the parties, Rule is called out for hearing at this stage and is finally disposed of.

2. The writ petition is in the nature of public interest litigation. The petitioner claims to be social worker and affiliated to several social organisations

working for the welfare of the general public. His grievance is that Nagpur is one of the important cities in the State of Maharashtra and the

principal city of Vidarbha region, which also holds winter session of State Legislature. The population of the city is about 25 lacs. The petitioner

has averred that considering the scale of population, there is tremendous workload on the courts working at Nagpur and the ratio of disposal of

cases in comparison with new cases is very low and, therefore, the rate of pendency is reaching catastrophic proportion. As on 31-3-1999, there

were 4300 motor accident claim cases pending before various Tribunals at Nagpur and out of that, about 1500 cases have been instituted on or

before the year 1995. The petitioner, as a public spirited citizen, has highlighted that due to non-availability of the exclusive Motor Accident Claims

Tribunal, undue hardship is caused to the litigants. The State Government was informed of the problems being faced by the litigants for want of

exclusive Motor Accident Claims Tribunal and since no remedial steps have been taken by the State Government, the petitioner has been

constrained to file the present petition for direction to the State Government for establishment of separate Tribunal for dealing with motor accident

claim at Nagpur exclusively.

3. In response to the show cause notice served upon respondent No. 3, viz., the District Judge, Nagpur, an affidavit-in-reply has been filed on 29-

6-2001, wherein it is stated that as on date, 6067 motor accident claim cases are pending at Motor Accident Claims Tribunal, Nagpur. The

District Judge, Nagpur, has further stated that monthly average disposal of claim cases comes to about 46 cases. In this background, the learned

District Judge has prayed that necessary orders be passed in the interest of justice.

4. The respondent No. 1 through Secretary, Home Department, has also filed affidavit-in-reply on 10-7-2001. It is stated in the said affidavit that

on 11-8-2000, a notification has been issued by respondent No. 1 in order to deal with pendency of motor accident claim cases by constituting

additional Motor Accident Claims Tribunal within the State consisting of number of members equivalent to the rank of Additional District Judge,

Joint District Judge and District Judge having territorial jurisdiction over the area co-extensive with the territorial jurisdiction of the Court at various

Taluka places. As regards the prayer made by the petitioner for creation of exclusive Motor Accident Claims Tribunal at Nagpur, respondent No.

1, in its affidavit-in-reply, has stated that the learned District and Sessions Judge, Nagpur, has submitted a proposal for creation of two courts as

Motor Accident Claims Tribunal. The said proposal sent by the District and Sessions Judge, Nagpur, is under consideration of the State

Government. But as it involves financial implications, the matter has to be routed with concurrence of the Finance Department and the State

Government would require about two months for considering the matter and for taking appropriate decision.

5. What is clear from the aforesaid facts is that the motor accident claim cases are increasing in the city of Nagpur and there are not adequate and

sufficient number of Tribunals for the disposal of such claim cases. As on 1-1-1999, 4176 motor accident claim cases were pending in Motor

Accident Claims Tribunal, Nagpur, which by the month of June, 2001 have increased to 6067. In a period of about two-and-half years, the motor

accident claim cases have increased one-and-half times, which is matter of serious concern. From the submission filed by the District Judge,

Nagpur, it is further seen that monthly average disposal of claim cases by Motor Accident Claims Tribunal at Nagpur is 46 cases only. If the

present pending motor accident claim cases are disposed of at that speed and no new claim cases are added thereto, still the said 6067 claim

cases pending at the end of June, 2001 shall take about 12 years for the disposal at the Tribunal level. Then there is filing of new cases every

month under the Motor Vehicles Act. The miseries and plight of the claimants can be imagined by the slow speed with which such cases are being

disposed by the Motor Accident Claims Tribunals at Nagpur, as these are not exclusive Tribunals dealing with claim cases under the Motor

Vehicles Act, but have principal functions as Civil and Criminal Courts. Many of the motor accident claim cases relate to the claimants whose sole

bread earner has died by accidental death. The families of such sole bread earner are left with means of no sustenance and with the hope of getting

compensation, such families beg and borrow and sustain themselves. If such unfortunate cases are not decided swiftly, quickly or with the speed,

the miseries and plight of such families are compounded. Looking to the very nature, the claim cases arising out of motor accidents deserve to be

heard at an early date to provide succour to the families hard hit due to death of sole bread earned in motor accident.

6. It is no longer debatable and rather it is well settled that the speedy justice is an ingredient of Article 21 of the Constitution of India and,

therefore, each litigant has a fundamental right of a speedy justice. That being so, it is the corresponding obligation of the State to constitute

sufficient number of courts, Tribunals and forums so that a litigant, who has knocked the door of the Court or Tribunal, is able to get justice

speedy. Taking into consideration the huge pendency of motor accident claim cases at Nagpur, expected future filing and slow disposal of such

cases, it is necessary for the State Government to provide sufficient Motor Accident Claims Tribunals at Nagpur. This is essential to ensure the

speedy disposal of cases and in consonance with Article 39-A of the Constitution of India, which provides that the State shall secure that the

operation of the legal system promotes justice. As observed by the Apex Court in Supreme Court Advocates-on-Record Association and another

Vs. Union of India, , with reference to Article 216 of the Constitution of India, which deals with the constitution of High Courts, "This is essential to

ensure speedy disposal of cases, to "secure that the operation of the legal system promotes justice" - a directive principle "fundamental in the

governance of the country" which, it is the duty of the State to observe in all its actions; and to make meaningful the guarantee of fundamental rights

in Part III of the Constitution." The Apex Court further observed that the failure to perform this obligation, resulting in negation of the Rule of law

by the laws" delay must be justiciable, to compel performance of that duty. Applying the same principle, in our view, it must be held that the

constitution of Motor Accident Claims Tribunal, as required by the State u/s 165 of the Motor Vehicles Act is justiciable issue and if it is shown

that the existing Tribunal is inadequate to provide speedy justice to the people, a direction can be issued to the State Government to take

appropriate steps in discharge of their duty, commensurate with the need to fulfil the State obligation of providing speedy justice to the victims or

the dependent of the victims of motor accident.

7. In so far as necessity of exclusive Motor Accident Claims Tribunal for Nagpur is concerned, in the light of the admitted fact that by the end of

June, 2001, 6067 motor accident claim cases are pending and only 46 cases are decided every month, it cannot be denied that Nagpur needs

establishment of separate Motor Accident Claims Tribunal exclusively to deal with the motor accident claim cases. Respondent No. 1, in its reply

filed through the Secretary, Home Department, has stated that the District and Sessions Judge, Nagpur, has submitted a proposal for creation of

two courts as Motor Accident Claims Tribunal through the Registrar, High Court and the said proposal has been received by respondent No. 1 in

December, 1999. We are unable to approve the laxity and slowness on the part of the State Government in taking decision on the said proposal,

which, if accepted, would have helped in providing speedy justice to the claimants in motor accident claim cases. The State Government was

expected to consider the said proposal with utmost urgency in discharge of its obligation relating to constitution of adequate number of Motor

Accident Claims Tribunal for speedy justice. It has been observed more often than not that the State Government does not show its sensitiveness

to such urgent matters. It is true that whenever financial implications are involved, the matter has to be routed with the concurrence of the Finance

Department, but then the Finance Department is also one of the departments of the State Government only and the matter cannot be put to hold

under the guise of concurrence of the Finance Department. Ordinarily we would have directed the State Government to assess the felt need and fix

the number of Motor Accident Claims Tribunal exclusively dealing with motor accident claims cases and then constitute the Motor Accident

Claims Tribunal exclusively for Nagpur. But in the facts and circumstances of the present case, in view of admitted position that as on 30th June,

2001, 6067 motor accident claim cases were pending before the Motor Accident Claims Tribunal, Nagpur, average monthly disposal of claim

cases is 46, the present pendency itself may take more than 12 years in wiping out the backlog muchless addition of more cases and the

recommendation of the District and Sessions Judge, Nagpur, that any addition to the existing Motor Accident Claims Tribunal, two additional

Motor Accident Claims Tribunals are required and the State Government's own stand that for creation of two Motor Accident Claims Tribunal at

Nagpur, about two months' time would be required, we are of the view that the State Government must constitute two Motor Accident Claims

Tribunal exclusively for dealing with motor accident claims cases at Nagpur.

8. We, accordingly, allow the writ petition and direct the State Government to constitute two separate Motor Accident Claims Tribunal in Nagpur

for dealing with motor accident claim cases exclusively. Necessary action in that regard u/s 165 of the Motor Vehicles Act, 1988 should be taken

by the State Government as expeditiously as possible and in no case later than two months from the date of production of the order of this Court.

We further direct the State Government to make a periodical review of the Motor Accident Claims Tribunal in Nagpur with reference to the felt

need for the disposal of cases taking into account the backlog and expected future filing.

Rule is disposed of accordingly. No costs.

The parties may be provided an ordinary copy of this order duly authenticated by the Sheristadar of this Court on payment of usual copying charges.