
(1998) 06 GAU CK 0021
In the Gauhati High Court
Case No : F.A. (MAC) No. 30 of 1996

Ranu Bala Paul and Others

APPELLANT

Vs

Bani Chakraborty asid Ors.

RESPONDENT

Date of Decision : 09-06-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (1999) ACJ 634 : (1998) 3 GLT 85

Hon'ble Judges : J.N. Sharmah, J

Bench : Single Bench

Advocate : Arindam Lodh, for the Appellant; B.B. Deb, for the Respondent

Judgement

J.N. Sarmah, J.—This appeal has been filed by the claimants. A claim case being Title Suit (MAC) No. 37 of 1995 was filed before the Member, Motor Accidents Claims Tribunal, South Tripura, Udaipur. The case of the claimants was that one Babul Chandra Paul who was travelling in the vehicle met with an accident on 26.4.1995 and the deceased was injured and he was shifted to hospital and there in the hospital he died. An amount of Rs. 50,000 was given u/s 140 of the Motor Vehicles Act by order dated 28.3.1996.

2. The vehicle was insured with the Oriental Insurance Co. Ltd. The case of the insurance company was that the deceased sustained injuries due to firing of the extremists and not due to a motor accident and the claim is speculative. The driver of the vehicle did not appear in the case in spite of receipt of notice.

3. When the claim u/s 140 of the Motor Vehicles Act was being enquired by the Tribunal, there was one F.I.R. before the Tribunal and a certificate issued by one doctor, that is, by Dr. Asim Dutta and death certificate issued from the G.B. Hospital. That finds place in para 8 of the judgment of the Tribunal.

4. In the F.I.R. it is specifically stated that while on 26.4.1995 at about 9.00 p.m. the informant Ranjit Shil, Tapan Dey and Gapu Dey were returning from Santir Bazar in the vehicle and when it passed near Garji Market, a group of miscreants

fired at random on the vehicle and the driver and passengers of the vehicle were injured by the bullets from the gun and the driver lost control of the vehicle. It was further stated that the injured were shifted to the Udaipur Hospital and they suffered injuries from the gun fire. Accordingly, learned Judge did not grant any compensation under the Motor Vehicles Act. Hence this appeal.

5. I have heard Mr. A. Lodh, learned Counsel for the appellants and Mr. B.B. Deb, learned Counsel for the respondents.

6. Insurance company in para 4 of the written statement no doubt took a vague defence, *inter alia*, as follows:

The accident as alleged is not motor accident and the claimants are not entitled to get any compensation.

7. Before the Tribunal Ranu Bala Paul, wife of the deceased was examined as PW 1. Only one witness was examined on behalf of the owner and that is one Swapan Chakraborty. No other witness was examined either on behalf of the owner or on behalf of the insurance company.

8. Learned Tribunal in deciding the matter took into consideration certain documents from another case, i.e., T.S. (MAC) No. 36 of 1995 that was a case u/s 140 of Motor Vehicles Act for no fault liability. Without going to decide that aspect whether court can look to these documents or can take judicial notice, this case can be disposed of on another ground. There is no evidence before the learned Tribunal to come to a finding that Babul Paul died because of bullet injury, rather the deposition of PW 1, the wife of the deceased, will show that there were head injuries, injury in the chest and other parts of the body because of accident. In deciding a matter Tribunal should bear in mind the caution struck by the Apex Court that a claim before the Motor Accidents Claims Tribunal is neither a criminal case nor a civil case. In a criminal case in order to have conviction, the matter is to be proved beyond reasonable doubt and in a civil case the matter is to be decided on the basis of preponderance of evidence, but in a claim before the Motor Accidents Claims Tribunal the standard of proof is much below than what is required in a criminal case as well as in a civil case. No doubt before the Tribunal, there must be some material on the basis of which the Tribunal can arrive or decide things necessary to be decided for awarding compensation. But the Tribunal is not expected to take or to adopt the nicety of a civil or of a criminal case. After all, it is a summary enquiry and this is a legislation for the welfare of the society. In *N.K.V. Bros. (P) Ltd. v. M. Karumai Ammal* 1980 ACJ 435 (SC), the Supreme Court pointed out that the Accidents Claims Tribunals must take special care to see that innocent victims do not suffer and persons liable do not escape liability merely because of some doubt here and some obscurity there. The court should not succumb to niceties, technicalities and mystic maybes. The court is bound to take broad view of the whole matter that is what was not done in the instant case.

9. Mr. Deb, learned senior counsel for the respondents submits that this accident

was not because of negligence of the driver and in support of it he relied on a Division Bench decision of this Court in Managing Director, A.S.T.C. Vs. Samir Chanda and Another, That judgment does not help him inasmuch as in that case it was finding of the Tribunal that there was a bomb blast and the person died because of the bomb blast and the question of granting compensation by the Tribunal did not arise. That is not the position here.

10. Accordingly, the judgment of the Tribunal shall stand quashed and the matter now shall go back to the Tribunal to dispose of the matter in accordance with law. The parties shall appear before the Tribunal on 27.7.1998 to receive further instructions.

11. Send back the records immediately.