
(2001) 07 RAJ CK 0091
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3549 of 2001

R.S.R.T.C.

APPELLANT

Vs

Sardara and Others

RESPONDENT

Date of Decision : 25-07-2001

Acts Referred:

Constitution of India, 1950 — Article 12
Motor Vehicles Act, 1988 — Section 140

Citation : (2002) 2 RLW 1325 : (2002) 5 WLC 563

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Virendra Agarwal, for the Appellant;

Final Decision : Dismissed

Judgement

Keshote, J.—Heard learned counsel for the petitioner.

2. The practice of the Corporation to leave no order of the Motor Accident Claims Tribunal unchallenged deserves to be deprecated.

3. In this petition under Articles 226 & 227 of the Constitution the challenge has been made to the interim award dated 7.4.2001 (Ann: 3), made by the Motor Accident Claims Tribunal, Jaipur, Under this interim award the petitioner is directed to pay Rs. 25,000/- to the claimant.

4. The petitioner though produced on the record of this petition the copy of the application filed by the claimants but the copy of the reply to this application submitted by it has not been produced. The fact that the petitioner has not produced before this Court the copy of its reply to this application of the claimants goes to show that possibly it would not have any reply to the same.

5. It is also not the case of the petitioner that the Corporation has filed its reply to the application of the claimants, Ann. 1.

6. It is really shocking that the Corporation instead of contesting that application

before the Motor Accident Claims Tribunal has permitted it to pass an order without any objection from its side in the matter and when the order goes adverse to it filed this petition in this Court.

7. The Corporation is not an ordinary litigant. It is a State or Agency or instrumentality of the State within the meaning of Article 12 of the Constitution. It is to exhibit itself to be a model transport operator and not like a private transport operator. It is being the State within the meaning of Article 12 of the Constitution equally concerned to observe and follow the directive principles of the Constitution. Accordingly it has to implement the benevolent provision of the Motor Vehicles Act, 1988 which has been enacted keeping in view socio economic aspect.

8. But it is seen every day that the Corporation is acting contrary to what it is expected to act and do.

9. This is not the end of the matter. If we go by the impugned interim award I find that the application of the claimant has not been opposed by the counsel who was appearing for the Corporation before the Motor Accident Claims Tribunal. It is different matter that the petitioner is raising all these contentions and grounds of challenge to the interim award of the Motor Accident Claims Tribunal, Jaipur made in favour of the claimant.

10. It is not permissible to the Corporation to raise or make out a new case before this Court, Similarly the Corporation cannot be permitted to raise the ground and the contentions in a case where the application filed by the claimant u/s 140 of the M.V. Act, 1988 has not been opposed by it before the Motor Accident Claims Tribunal.

11. It is not gain say that the Corporation may many times loose a good case due to its own fault if it is not vigilant, careful and correct in its approach to engage the representative to represent it before the authorities or Tribunals or courts. The fault lies with itself. But merely on this ground the Corporation cannot be given a treatment different than what it is given to the ordinary litigants in the Court. In the court all litigants are equal and there is no special category of litigants like V.I.P. or V.V.I.P. etc. All litigants who come up before this Court are to be treated equally and are to be dealt with in the same manner by the Court. Merely because Corporation is a public undertaking it cannot be given any special treatment, indulgence and consideration for its own error, defaults or inaction or omissions. In case any such indulgence or consideration is permitted then the very purpose and object of the enacting Section 140 of the M.V. Act, 1988 would be frustrated and rendered in effective and inoperative.

12. The claim as per the Corporation case has been made by the claimant after about 18 years of the accident. Even if it is taken to be correct I do not find any jurisdiction to interfere with this order on this ground. In case it would have been really a serious objection it should have been raised and pressed before the Motor Accident Claims Tribunal, Jaipur which has not been done. The Corporation

has to take all care and caution that it does not lose a good case. It is unfortunate that officers of this impersonal machinery are not careful about their duties. They themselves do not appreciate, understand and do their duties. They are as what I am seeing every day concerned with their rights. Right and the duty are co-related and an officer who is only concerned with his rights, never bothers for the duty which he owes to his employer and public is an unnecessary burden on the Corporation. The officers of this impersonal machinery deal with its matters in this manner, fashion and the way, the Corporation is to be very careful and to find out the way to check this class of the officers, It may be a case where the officers of the Corporation in this matter would have acted negligently, carelessly and wholly unmindful of their duties which they owe to their employer and the public. This is one aspect of the matter. But we cannot rule out another aspect of the matter. These officers of the impersonal machinery of the Corporation for consideration or otherwise may be interested to see that the Motor Accident Claims Tribunal passes an award for interim compensation in favour of the claimant. Either way if it is correct it is a very serious matter. The petitioner Corporation has to face the problem within its own office. It is a high time where the Corporation has to consider how to deal with this class of the officers of both of the categories. There must be if it is already not there, a permanent accountability cell so that these officers are to be severely dealt with. In case this way the Corporation may proceed to save from unnecessary financial burden which falls on it because of negligence, carelessness or connivance of these officers in the matter. It is not gain saying that there may not be any legal impediment or difficulty with the Corporation to recover this amount from the erring or defaulting officer. If as a result of any negligence or carelessness of an officer of the Corporation, the Corporation suffers monetary losses, it can be recovered from that officer concerned though after holding a departmental inquiry. The Corporation instead of recovering this amount from the erring and defaulting officer it falls in a wrong track. Sitting under Article 226 or 227 of the Constitution this Court is not distributing any charity. The relief to the litigant who approaches to it can only be granted when it is made out a case for grant thereof. It cannot be granted in favour of a litigant merely on the ground or consideration or approach that it is a State within the meaning of Article 12 of the Constitution or a Govt. of Rajasthan undertaking.

13. In the result this petition fails and the same is dismissed. However, in case the Tribunal has not passed any order for disbursement and investment of the amount, the Tribunal is directed to keep that amount with it and deposit the same as long term FDR initially for 39 months in the name of its Registrar. In case ultimately the claimant succeeds in the petition this amount together with accrued interest thereon be paid to him. In the case of failure of the respondent in the matter this amount with interest accrued thereon be refunded to the Corporation. A copy of this order be sent to the Tribunal forthwith.