

(1987) 07 DEL CK 0001

In the Delhi High Court

Sapna Aggarwal and Others

APPELLANT

Vs

Mohinder Singh and Another

RESPONDENT

Date of Decision : 27-07-1987

Acts Referred:

Citation : (1987) 2 ACC 355 : (1987) ACJ 826

Hon'ble Judges : Sunanda Bhandare, J

Bench : Single Bench

Judgement

Sunanda Bhandare, J.—On 12th October 1986 one Shri Kalit Mohan Aggarwal aged 29 years died as a result of an accident caused by a bus alleged to have been driven by respondent No. 1 and owned by respondent No. 2--Delhi Transport Corporation. Petitioner No. 1 is the widow of deceased Kalit Mohan Aggarwal, petitioners 2 to 4 are the children of deceased Kalit Mohan Aggarwal and petitioner No. 5 who is aged about 80 years is the father of the deceased Kalit Mohan Aggarwal.

2. The petitioners filed an application for grant of compensation u/s 110-B of the Motor Vehicles Act (hereinafter referred to as the Act) on 25th November 1986. Along with this application, the petitioners also filed an application u/s 92-A of the Act for grant of interim relief on principle of "no fault liability". The Motor Accident Claim Tribunal on that very day issued notice to the respondent returnable on 3rd March 1987, Being aggrieved by the long date given by the learned trial Judge the petitioners moved an early hearing application which was dismissed by the Motor Accident Claim Tribunal vide order dated 15th December 1986. The case was listed before the court after notice on 3rd March 1987, however on that date the respondents sought time to file a written statement. The prayer was granted and the case was directed to be listed on 7th July 1987. On 7th July 1987 respondents 1 & 2 filed their written statement and now the case is listed on 22nd September 1987 for further proceedings in the matter.

3. The petitioners by this petition under Article 227 of the Constitution of India have invoked the supervisory jurisdiction of this Court and pray for a mandamus

directing respondent No 3--Motor Accident Claim Tribunal to dispose of the application u/s 92-A of the Act expeditiously.

4. It was contended by the learned Counsel for the petitioners that the deceased Shri Kalit Mohan Aggarwal died at a very young age of 29 years leaving behind a widow and three infant children. The father of the deceased who is petitioner No. 5 to this petition, lives in jalandhar (Punjab) and since petitioners 1 to 4 have no means of livelihood they were compelled to go to jalandhar and stay with the 80 years old father of the deceased. It was submitted that Section 92-A of the Act was incorporated to give interim relief in the case of death of a person resulting from an accident arising out of the use of a motor vehicle on the principle of no fault liability. Under this section, in the case of the death of a person, the owner of the vehicle is liable to pay compensation of Us. 15,000/- and the claimant is not required to plead and establish that the death in respect of which the claim has been made was due to any wrongful act, negligence or fault of the owner of the vehicle concerned or any other person. Learned Counsel submitted that this section was incorporated so that some interim relief is granted to the persons who are directly affected because of the death of a person. Learned Counsel further submitted that if applications filed under this section take a long time to be disposed of, the very purpose of enacting this section will be defeated.

5. On behalf of the respondents, it was submitted that the written statement was filed by the respondents on 7th July 1987 but the case could not proceed because petitioner No. I was not available for recording her statement on that date.

6. Having considered the rival contentions of the parties, I find that there is substantial force in what has been stated by the learned Counsel for the petitioners. Though, it may be true that the Motor Accident Claim Tribunal is hard-pressed for time and there is a large pile of old cases which are still not disposed of and are waiting in the queue and for that reason the application for compensation u/s UO-A of the Act may take some time for disposal but the Motor Accident Claim Tribunal must decide the applications u/s 92-A of the Act as expeditiously as possible because it is a special provision enacted by the Legislature so that some interim relief is granted to the claimants to enable them to survive while their application for compensation u/s UO-A is still pending decision. It is true that no time limit is fixed by the section for disposal of such applications, however the very purpose for which the provision is enacted requires that such applications are given priority and are decided in the shortest possible period Moreover, since for deciding the application u/s 92-A the only thing that has to be seen is whether the death of the person was caused by accident and the claimant is not required to prove at that stage that the death in respect of which the claim has been made was due to any wrongful act, negligence or fault of the owner of the vehicle, the inquiry is very limited and in the very nature of things should not take a very long time.

7. In the present case, though the petitioners had filed the application as early

as in November 1986, notice was made returnable on 3rd March 1987 i.e. four months thereafter. Again, when the respondents appeared on 3rd March 1987, on the request of the respondents, the case was again adjourned to 7th July, 1987, that means again three months" time was given to file the written statement. In the process, already from the filing of the application till the filing of the written statement, over eight months had expired. The grievance made by the respondents that petitioner No. 1 was not present for recording her statement on 7th July 1987 is also not quite justified because as stated in the petition, petitioners 1 to 4 had to go to jalandhar and stay with the aged father of the deceased because they had no means of livelihood in Delhi. Now, since the case was being adjourned and even a reply had not been filed before 7th July 1987, the statement of petitioner No. 1 could not have been recorded on that date. It was only when the vehicle owner admits that the death had occurred because of the accident caused by the vehicle, or it is proved so otherwise, that an interim order u/s " 92-A of the Act can be passed Thus, till the respondents in the present case had either filed a reply to the application u/s 92-A or written statement to the main case u/s 110-A, it is not permissible to record the statement. The Motor Accident Claim Tribunal must, in such cases, use the discretion in such a manner that justice is done between the parties by giving early relief to the claimant. By giving long dates for notice and filing written statement, the whole object of the legislation is defeated.

8. Considering the hardship that is caused to the petitioners in the present case and having considered the very object of the legislation, I think this is one such fit case where direction will have to be issued to the Motor Accident Claim Tribunal to decide the application u/s 92-A of the Act at the earliest.

9. I, Therefore, direct the parties to appear before the Motor Accident Claim Tribunal on 3rd August 1987 on which date the Motor Claim Accident Tribunal is directed to fix a date for recording the statement of petitioner No. 1 in the week commencing 10th August 1987. The Motor Accident Claim Tribunal is further directed that the application u/s 92-A of the Act be disposed of on or before 14th August 1987. It may not be out of place to mention here that even in other cases priority may be given for decision of applications u/s 92-A of the Act and though the section does not provide for it, the Motor Accident Claim Tribunal may fix its own time limit so that speedy disposal is ensured.

10. In the above terms, the petition is disposed of. No costs.