
(1990) 11 AHC CK 0045

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1861 of 1988

Shabir Hussain and Others

APPELLANT

Vs

Abdul Rehman and Others

RESPONDENT

Date of Decision : 26-11-1990

Acts Referred:

Constitution of India, 1950 — Article 226
Constitution of India, 1950 — Article 226
Constitution of India, 1950 — Article 226

Citation : (1991) ACJ 858 : (1990) 1 AWC 50

Hon'ble Judges : V.N. Khare, J

Bench : Single Bench

Advocate : A.N. Bhargava, for the Appellant;

Final Decision : Allowed

Judgement

V.N. Khare, J.—This petition under Article 226 of the Constitution is directed against the orders dated 13.10.1987 and 29.10.1987 passed by the Motor Accidents Claims Tribunal, Bijnor in Misc. Case No. 43 of 1987.

2. Brief facts of the case are these:

One Aslam, who was son of petitioner Nos. 1 and 2, died on 9.12.1986 in a bus accident. It is alleged that the bus was driven by respondent No. 1 Abdul Rehman which was owned by U.P. State Road Transport Corporation, Bijnor Depot, Bijnor. The petitioners filed claim petition against respondent Nos. 1 and 2 u/s 92-A of the Motor Vehicles Act, 1939 (hereinafter referred to as "the Act") for award of statutory compensation. The defence of the respondents was that their bus was not involved in the said accident. Simultaneously, the petitioners preferred a claim u/s 110-A of the Act also before the Tribunal. The Tribunal firstly recorded the evidence of the petitioners in the claim petition u/s 92-A of the Act and fixed another date for recording the evidence of the respondents. In between time an application was moved on behalf of respondent No. 2 before the Tribunal praying that since the claim petitions under Sections 92-A and 110-A are

to be decided on the same evidence, both the petitions be decided together. The Tribunal allowed the application holding that since both the petitions are to be decided on common evidence and as the recording of evidence in claim petition preferred u/s 92-A of the Act would be a waste of time, therefore, both the claim petitions may be decided together. The petitioners moved an application for recall of the said order but the same was rejected by the Tribunal holding that the proceedings u/s 92-A of the Act having been stayed, both the petitions shall be decided together on common evidence to be recorded in both the petitions.

3. Heard counsel for the parties.

4. The view taken by the Tribunal in directing that both the petitions preferred u/s 92-A and Section 110-A of the Act have to be decided together as similar evidence is likely to be adduced by the parties, is patently erroneous. Sections 92-A, 92-B, 92-C, 92-D and 92-E occurring in Chapter VII-A of the Act were inserted by Act No. 47 of 1982 in view of necessity of no fault liability legislation in Motor Vehicles Act expressed and emphasised by the Supreme Court and various High Courts. By this Amendment Act where a death or permanent disablement is caused to any person as a result of an accident by a motor vehicle, the owner of the vehicle becomes liable to give statutory compensation because of no fault liability. In such proceedings, the defence available u/s 96 of the Act is not available excepting where the very fact of the accident is denied. u/s 92-A of the Act the owner can be saddled with the liability of payment of compensation if he admits that his vehicle was involved in the accident or the fact is prima facie established from the material on record. No elaborate inquiry is required to be made by the Tribunal while disposing of an application u/s 92-A of the Act. The provisions contained in Chapter VII-A are a benevolent legislation and duty of the court is to advance the object of the enactment and not to frustrate it by prolonged and delayed inquiry. The object is that the heirs or kith and kin of the deceased may be given compensation so that they may be able to overcome the calamity for the time being.

5. However, the situation may arise in cases like the present one where the accident itself has been disputed by the respondents. The case of the respondents appears to be that the bus of the U.P. State Road Transport Corporation was not involved in the accident and it might have been some other vehicle. In such a situation what the Tribunal is required to do is to hold a summary inquiry and arrive at a conclusion as to whether the vehicle of the respondent owner was involved or not in the accident and whether the accident did take place. This summary inquiry consists of evidence of the parties and other material on record. The proceeding u/s 92-A is a speedy remedy and cannot be tagged with the proceeding u/s 110-A of the Act. If from the summary inquiry the Tribunal comes to the conclusion that the vehicle of the respondent owner was involved, it has jurisdiction to immediately award compensation u/s 92-A of the Act. The recording of evidence is necessary only where the accident by respondent's vehicle is disputed but in other cases only the material on

record is enough to warrant an order u/s 92-A of the Act. Section 92-E of the Act provides that the provisions of this Chapter VII-A shall have effect notwithstanding anything contained in any other provisions of this Act or any other law for the time being in force. Further the proviso to Section 110-B of the Act provides that the application moved u/s 92-A has to be disposed of in accordance with the provisions of Chapter VII-A. In view of this it is clear that proceedings u/s 92-A of the Act are independent of the proceedings u/s 110-A of the Act. In view of this, the view taken by the Tribunal in directing that both the applications shall be decided simultaneously is patently erroneous.

6. In the result the writ petition is allowed. The impugned orders dated 13.10.1987 and 29.10.1987 passed by the M.A.C.T., Bijnor in Misc. Case No. 43 of 1987 are set aside. The Tribunal is directed to dispose of the claim petition of the petitioners after giving an opportunity to the U.P. State Road Trans. Corpn. within two months from the date of service of a certified copy of this order upon it.