
(1996) 08 KAR CK 0011
In the Karnataka High Court
Case No : Civil Petition No. 546 of 1995

Siddaramappa Patil	Vs	APPELLANT
President, Bharathiya Vidhya Vardhaka Sangha and Another		RESPONDENT

Date of Decision : 26-08-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 166 (2)

Citation : (1997) 1 KarLJ 158

Hon'ble Judges : Hari Nath Tilhari, J

Bench : Single Bench

Advocate : Asha Kumbargerimath, for I.G. Gachchinmath, for the Appellant; U. Abdul Khader, for the Respondent

Final Decision : Allowed

Judgement

Hari Nath Tilhari, J.—Heard Mrs. Asha Kumbargerimath, holding brief for Mr. I.G. Gachchinmath, learned Counsel appearing for petitioner and Mr. U. Abdul Khader, learned Counsel appearing for respondent No. 2, United India Insurance Co. Ltd. None appeared for respondent No. 1 nor any objection has been filed on their behalf.

2. The applicant's case is that, applicant is an old aged person nearing 68 years and on account of grievous injuries and fractures of ribs, he has been compelled to confine to bed and restrict his movements and due to this physical infirmity, he is facing great inconvenience and hardship to attend the case M.V.C. No. 342 of 1992, pending before the Motor Accidents Claims Tribunal, Mangalore. Petitioner's case is that Mangalore is at a distance of more than 1,000 km. from Bidar, where the petitioner resides. Petitioner further alleges that the respondent No. 1 has got its office at Bidar and respondent No. 2, the United India Insurance Co. Ltd., has also got its Branch Office at Bidar and they may not suffer if the case is transferred in the matter of trial and defence. But if the trial takes place at Mangalore, the petitioner will be subjected to great inconvenience and difficulty, so it has been prayed that the case may be transferred from the Motor

Accidents Claims Tribunal, Dakshina Kannada, Mangalore, to Motor Accidents Claims Tribunal at Bidar. The learned Counsel strenuously pressed this ground in the course of her arguments.

3. The learned Counsel for the opposite parties submitted that cause had accrued and that the accident had taken place at Mangalore.

4. I have applied my mind to the contentions of the learned Counsel for the parties. The Motor Vehicles Act has been amended and it is provided very clearly therein that in matters of motor accident claim, application for compensation can be filed before the Claims Tribunal situated in the district or at the place where the applicant resides or the claimant resides, apart from the place where the accident occurred and he has got a right to choose out of two forums. This amendment has been introduced sometime in the year 1994. As per Sub-section (2) of Section 166 it is provided that,

Section 166(2): Every application for claim of compensation shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed.

This was introduced for the first time by Act 54 of 1994 with effect from 14.11.1994, whereunder the claimant has been given option to file a claim petition before the Motor Accidents Claims Tribunal at either of the three places. It may be a place where the accident has taken place or it may be a place where the claimant resides or it may be a place where the defendant resides. This choice has been given to the claimant. The spirit, which is behind this provision, is that the person who has suffered, may not suffer because of any compulsion of law in the matter of approaching the Tribunal, and pursuing his remedy. As such, the option has been given to the claimant even to file his claim before the Claims Tribunal within whose jurisdiction he resides, though ordinarily in the civil cases, the jurisdiction of court is determined by the residence of the defendant or on the basis of cause of action in whole or part. That under the Motor Vehicles Act, by introduction of Sub-section (2) of Section 166, the option has been given to the claimant even to file his claim before the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business. In the present case, the claim petition has been filed prior to the introduction of this sub-section. So, no doubt, the claim application has been filed at Mangalore. Keeping in view the spirit in which this sub-section has been enacted by the legislature, it appears just and proper in the facts and circumstances of the case, the claimant may be allowed to prosecute the case before the Tribunal within whose jurisdiction the claimant resides, i.e., before the Motor Accidents Claims Tribunal, Bidar.

5. Thus considered, in my opinion, it is a fit case in which application for transfer

may be allowed looking to the age of the claimant and his position as well as the spirit of the law and as such the application for transfer is allowed. Let the records of the M.V.C. Case No. 342 of 1992 be transferred from the record of Motor Accidents Claims Tribunal, Dakshina Kannada, Mangalore, to the record of Motor Accidents Claims Tribunal at Bidar expeditiously. Application is thus allowed.

Costs of this application are made easy.