
(1991) 07 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Civil Miscellaneous No. 2150-CII of 1991

Sona Devi and Others

APPELLANT

Vs

Jagdish and Others

RESPONDENT

Date of Decision : 17-07-1991

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24
Motor Vehicles Act, 1988 — Section 166

Citation : (1992) 1 ACC 42 : (1992) ACJ 1148 : (1993) 103 PLR 744

Hon'ble Judges : S.S. Rathor, J

Bench : Single Bench

Advocate : Jagdish Manchanda, for the Appellant; P.C. Dhiman, for the Respondent

Final Decision : Allowed

Judgement

S.S. Rathor, J.—This is a petition u/s 24 of the CPC for the transfer of claim petition u/s 166 of the Motor Vehicles Act, 1988 pending with Motor Accidents Claims Tribunal at Jind presided over by Mr. K. K. Doda. The facts of the case are:

On 23.3.1990 an accident took place on Kathal-Jind Road in the area of District Jind. Sona Devi being widow and four minor sons of deceased Balak Ram filed a claim petition at Jind on 22-7-8990. After effecting service on the respondents, filing of the written statement and framing of the issues, in due course, proceedings were fixed for 29.7.1991 for evidence of the claimants. The claimants filed this petition in this court on 5.3.1991 and after due service of the respondents, now the matter is before me for final disposal.

2. Learned counsel for the petitioners has argued that the claimant Sona Devi alongwith other minor claimants who are her sons, are residing at Shahbad town in District Kurukshetra. Similarly, respondents other than the insurance company are also residents of Shahbad Township, District Kurukshetra. In view of these facts, he has argued that the proceedings at Kurukshetra would be most convenient to both the parties. He has further stated that District Courts at

Kurukshetra are hardly 25 km. from Shahbad connected with G.T. Road whereas District Courts at Jind are more than 100 km. away from Shahbad, and very rare direct bus service is available. The claimant being a poor widow, she shall have to undergo physical difficulties as well as monetary loss in prosecuting the proceedings at Jind.

3. On the other hand, learned counsel for the respondents had raised threefold points. Firstly, that the proceedings initiated by the petitioner at Jind which are fixed for evidence should not be transferred at this belated stage. Secondly, no extraordinary strong case for transfer is made out and his client shall have to pay fees to another lawyer at Kurukshetra. Thirdly, provisions of Section 24 of the CPC cannot be employed to entertain the present transfer petition pertaining to proceedings before a Motor Accidents Claims Tribunal.

4. Taking the last submission first of all, it will suffice to say that contention raised is not entertainable and has to be negatived in view of a Full Bench judgment of this court reported as *Dharshana Devi v. Sher Singh* 1970 A.C.J. 442 (P & H). The pertinent observation made in the aforementioned case in a matter of motor accident claim are as under:-

[The observations are from *Jaswant Rai v. The National Transport and General Co. Pvt. Ltd.* (1971) 73 P. L R. 543, Full Bench at page 554-Editor].

"The proceedings before the Claims Tribunal closely resemble to proceedings in a civil court and to use the language of their Lordships of the Supreme Court in *Jugal Kiphore's* case AIR 1967 SC 1494, the Claims Tribunal for all intents and purposes discharges the same functions and duties in the same manner as a court of law is expected to do. In this view of the matter I hold that the proceedings before the Claims Tribunal are not in the nature of arbitration proceedings and that the claims Tribunal while disposing of the claims acts as a court".

5. Before dealing with the other submissions, it is to be kept in mind that an application for transfer of a case by this court, generally speaking, should be self-contained and should make out a strong case for the transfer of the case. But this principle has to be applied keeping in view facts and circumstances of each case. In this case, the claimants are a widow and four minor sons of the deceased. The parties of the litigation reside at Shahbad. If the case is transferred to a competent Tribunal at Kurukshetra, no injury, legal or otherwise, is likely to occur to the respondents. Rather adjudication of the proceedings at Kurukshetra would be meant to dispense justice to the litigants at their doorsteps, their residence at Shahbad being at a very short distance. Besides this, undisputedly, the language of Section 24 of the CPC is very wide in its dimensions and no limits or restrictions have been laid in the way of this court while exercising the powers of transfer. The facts and circumstances of the case and equitable convenience to both the parties justifiably make out a good case for transfer.

6. The contention of the counsel for the respondents that his clients shall have to engage another lawyer at Kurukshetra is not tenable. The poor widow and her minor sons (claimants) shall also have to undergo this exercise, if the case is transferred to Kurukshetra. Even otherwise engagement of a lawyer once or twice is a wear and tear of litigation and has to be borne by the "litigants. Another submission of the respondents that the application has been moved at belated stage and proceedings are fixed for evidence at Jind is not to be given much weight. Petition filed in this court on 5.3.1991 cannot be called to be belated one and the proceedings before the Tribunal at Jind are fixed for evidence for the first time on 29.7.1991. There is no late or delay attributable to the claimants.

7. In view of what has been discussed above, I allow this petition and direct that the proceedings in question pending in the court of Mr. K. K Doda, Motor Accidents Claims Tribunal at Jind, stand transferred to the Court of District Judge, Kurukshetra, who in turn may keep the case either with him or assign it to any other Court of Additional District Judge exercising the powers of Motor Accidents Claims Tribunal at Kurukshetra. No costs. The court at Jind is directed to send the records of the case as early as possible to the court of District Judge at Kurukshetra, so that the trial proceedings are concluded most expeditiously.