

(1989) 07 AHC CK 0117

In the Allahabad High Court

Case No : First Appeal No's. 203 and 229 of 1976

Union of India (UOI)

APPELLANT

Vs

Smt. Sushila Devi and Others

RESPONDENT

Date of Decision : 21-07-1989

Acts Referred:

Motor Vehicles Act, 1939 — Section 100, 110F

Citation : (1989) 2 AWC 1044

Hon'ble Judges : V.K. Khanna, J;S.K. Mookerji, J;A.N. Varma, J

Bench : Full Bench

Advocate : Lal Ji Sinha, for the Appellant; B.M. Mishra, for the Respondent

Final Decision : Disposed Of

Judgement

A.N. Varma, J.—These two appeals raise a question as to the true scope and interpretation of Section 110 of the Motor Vehicles Act. The learned Single Judge (N.N. Mithal, J.) who has formulated and referred three questions for our opinion, felt that the Division Bench decision of this Court in the case of Union of India (UOI) Vs. Bhagwati Prasad and Others, , has, while interpreting Section 110 and allied provisions of the Motor Vehicles Act, stated the law on the subject too widely and consequently it requires reconsideration. The reference was necessitated because of a preliminary objection raised by the learned Counsel for the Union of India before the learned Single Judge. The objection was that the claims giving rise to the two suits out of which these first appeals arise were exclusively cognizable by the Motor Accidents Claims Tribunal and not by the Civil Court. After an elaborate consideration of the various authorities cited before the learned Single Judge he has posed three questions and referred them for our opinion. The questions are-

(a) What is the extent and import of the expression "claim for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles occurring in Section 110(1) of the Motors Vehicles Act, 1939?

(2) Whether in an accident involving a motor vehicle, merely for the reason of being involved in the accident, a claim for compensation will lie before the Claims Tribunal constituted u/s 110 of the Motor Vehicles Act, 1939?

(3) What, if any, is the effect of the provisions of Section 110-B of the Act in such cases on the jurisdiction of the Claims Tribunal?

2. In Bhagwati Prasad's case (supra) a Division Bench of this Court had occasion to consider the question whether a Motor Accidents Claims Tribunal constituted under the aforesaid Act is competent to take cognizance of a claim for compensation in respect of an accident involving death or bodily injury to persons arising out of the use of a motor vehicle against a third party also i.e. a party other than the owner or driver of the vehicle and the insurer of the vehicle. The Division Bench was considering a composite claim directed against both the driver and the owner of a tempo-taxi which had collided with the Allahabad-Saharanpur Passenger as well as the Union of India represented by the General Manager, Northern Railway. Upon a schematic analysis of Sections 110 to 110-F, the Bench held that all claims in respect of accidents arising out of the use of motor vehicle must be held to be cognizable by the Motor Accidents Claims Tribunal and not by the Civil Court, the Legislature having provided an exhaustive machinery and the procedure to be followed there under for adjudicating upon all claims in respect of accidents arising out of the use of motor vehicles. We shall revert to this case later when considering the specific questions referred for our opinion. We will take up the first and the second questions together as a glance at the second question, in our opinion, would indicate that it is fully covered by the first question. Upon a true interpretation and import of Section 110(1) will depend the answer to the second question formulated by the learned Single Judge as well.

3. In order to appreciate the scope of Section 110 it will be necessary to examine the nature of claim tribal u/s 110 of the Act. In *Minu B. Mehta and Another Vs. Balkrishna Ramchandra Nayan and Another*, , their Lordships had occasion to consider an identical issue. The main contention urged before the Supreme Court was that negligence in the use of the motor vehicle causing the accident giving rise to the claim for compensation need not be proved u/s 110 of the Motor Vehicles Act. The argument further was that Chapter VIII of the Act (containing Section 110 etc.) was a consolidating Act relating to motor vehicles and their use on a public place and, as such, it contains the entire law, procedural as well as substantive. That being so, it was argued, the common law or the Law of Torts was not applicable. It was sufficient, therefore, to establish that the accident arose out of the mere use of the motor vehicle irrespective of whether the use of the motor vehicle was negligent or otherwise.

4. The contention was rejected by their Lordships in the following words :

26. This plea ignores the basic requirements of the owner's liability and the claimants right to receive compensation. The owners' liability arises out of his

failure to discharge a duty cast on him by law. The right to receive compensation can only be against a person who is bound to compensate due to the failure to perform a legal obligation. If a person is not liable legally he is under no duty to compensate anyone else. The Claims Tribunal is a tribunal constituted by the State Government for expeditious disposal of the motor claims. The general law applicable is only common law and the law of torts. If under the law a person becomes legally liable then the person suffering the injuries is entitled to be compensated and the Tribunal is authorised to determine the amount of compensation which appears to be just. The plea that the Claims Tribunal is entitled to award compensation which appears to be just when it is satisfied on proof of injury to a third party arising out of the use of a vehicle on a public place without proof of negligence if accepted would lead to strange results.

27. Section 110(1) of the Act empowers the State Government to constitute one or more Motor Accidents Claims Tribunal for such area as may be specified for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death or bodily injury to persons. The power is optional and the State Government may not constitute a Claims Tribunal for certain areas. When a claim includes a claim for compensation the claimant has an option to make his claim before the Civil Court. Regarding claims for compensation, therefore, in certain cases Civil Courts also have a jurisdiction. If the contention put forward is accepted so far as the Civil Court is concerned it would have to determine the liability of the owner on the basis of common law or torts while the Claims Tribunal can award compensation without reference to common law or torts and without coming to the conclusion that the owner is liable. The concept of owner's liability without any negligence is opposed to the basic principles of law. The mere fact that a party received an injury arising out of the use of a vehicle in a public place cannot justify fastening liability on the owner. It may be that a person bent upon committing suicide may jump before a car in motion and thus get himself killed. We cannot perceive by what reasoning the owner of the car could be made liable. The proof of negligence remains the lynch pin to recover compensation. The various enactments have attempted to mitigate a possible injury to the claimant by providing for payment of the claims by insurance.

(emphasis supplied).

Finally, their Lordships summed up the law thus in paragraph 36 of the judgment:

We conclude by stating that the view of the learned Judges of the High Court has no support in law and hold that proof of negligence is necessary before the owner or the insurance company could be held to be liable for the payment of compensation in a motor accident claim case.

5. The above decision, in our considered view, provides a complete answer to the first and second questions formulated by the learned Single Judge. According to our reading of the decision of the Supreme Court cited above, a claim for compensation would be triable u/s 110 of the Motor Vehicles Act only if it is in

respect of accidents involving the death of or bodily injury to persons caused by such use of the motor vehicle as may give rise to a tortious liability, such as, rash or negligent driving. As a corollary it necessarily follows that the Claims Tribunal would not get jurisdiction to entertain a claim for compensation merely because the motor vehicle happened to be involved in the accident. The crucial words are "claim for compensation in respect of accidents...arising out of the use of motor vehicles..." In the context of the nature of the liability sought to be covered by Section 110, the words "accidents...arising out of the use of motor vehicles" must mean that the use of the motor vehicle caused the accident giving rise to the claim for compensation.

6. Section 110 of the Act and the crucial words quoted above were also the subject of consideration by a Full Bench of the Punjab and Haryana High Court in the case of *Rajpal Singh Vs. The Union of India and Others*, . The majority opinion was delivered by S.P. Goyal, J. Speaking for the majority S.P. Goyal, J. observed thus in paragraph 31 of the judgment--

The answer to the problem, therefore, entirely depends on the interpretation of Section 110 under which the Claims Tribunals are set up and conferred with the jurisdiction to deal with the claims for compensation According to this provision, the Claims Tribunal is set up to adjudicate upon claim for compensation in respect of the accidents involving the death of, or bodily injury to persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both. So, the Tribunal has not been conferred with the jurisdiction to deal with the claims of compensations in respect of all kinds of accidents. Instead, its jurisdiction is confined to claims of compensation in respect of those accidents which arise "out of the use of motor vehicles. In other words, the use of motor vehicle must be the cause of the accident how" sever slight it may be and unless the accident is the effect caused by the use of the motor vehicle it would not be possible to say that it has arisen out of the use of motor vehicle. The interpretation of similar words came up for consideration before a Five Judges Bench of the High Court of Australia in *Government Insurance Office of New South Wales v. R.J. Green and Leoyd Pty. Ltd.* 1967 A CJ 329. The words used in the insurance policy were "injury caused by or arising out of the use of the vehicle". Windeyer, J. while agreeing with the judgment written by Barwick, C.J. observed:

The words, "injury caused by or arising out of the use of the vehicle" postulate a casual relationship between the use of the vehicle and the injury". Caused by connotes a "direct" or "proximate" relationship of cause and effect. "Arising out of extends this to a result that is less immediate but it still carries a sense of consequence. It excludes cases of bodily injury in which the use of the vehicle is a merely casual concomitant not considered to be, in a relevant casual sense, a contributing factor".

(emphasis supplied)

7. With respect we entirely agree that the jurisdiction to claims for compensation u/s 110 would arise only where the allegation is that the use of motor vehicle was the cause of the accident, that is, the accident was caused by the use of the motor vehicle. It may, however, be mentioned that the Full Bench of Punjab and Haryana High Court was concerned with a claim which was directed solely against the railway authorities alleging that the accident took place entirely because of their carelessness and negligence and that of the driver of the train and the gateman. The Full Bench specifically noticed that in the claim petition before them there was no allegation that the motor vehicle in any way contributed to the cause of the accident. Their Lordships of the Full Bench also noticed the decision of this Court in the case of Bhagwati Prasad (supra) but distinguished it on the ground that that was an instance of a composite claim which was directed against both the owner and the driver of the motor vehicle as well as its insurer on the one hand and the railways on the other. That is why, the majority opinion emphasized that in the claim petition before them there was no allegation that the motor vehicle in question had contributed in any way to the cause of the accident. Their Lordships, therefore, held that the claim could not thus be said to be in respect of an accident arising out of the use of the motor vehicle. His Lordship Tawatia, J. delivering the minority opinion, also expressed total agreement with the decision of this Court in Bhagwati Prasad's case. The majority, however, did not dissent from the view expressed in Bhagwati Prasad's case but distinguished it on the ground mentioned above.

8. Another decision which must be noticed in view of the fact that the law on the subject has been dealt with and expounded exhaustively dealing with almost every aspect of the question arising for our consideration. The decision is Gujarat State Road Transport Corporation Vs. Union of India and Others, . His Lordship Majumdar, J. delivering the judgment of the Court analysed the entire scheme of the Act pertaining to compulsory insurance of motor vehicles as well as adjudication of claims in respect of accidents involving the death of or bodily injury to persons arising out of the use of motor vehicles or damages to any property of a third party so arising or both. His Lordship also noticed almost all the decisions on the subject, namely, the scope and interpretation of Section 110 rendered by the Supreme Court as well as the various High Courts. The learned Judge summed up the law thus at pages 18 and 19:

It is, therefore, obvious that the phraseology employed by the legislature in Section 110(I) laying down functions to be performed by the Claims Tribunal for adjudicating upon the claims for compensation in respect of accidents involving injuries to persons arising out of use of motor vehicles must necessarily be treated to mean that the Claims Tribunal will be entitled to adjudicate upon the claims for compensation in respect of accidents arising out of negligent use of the motor vehicles and not any innocuous use or in other words, it should be misuse of the motor vehicle or rash and negligent use of the motor vehicle which must have contributed to or must have caused the accident in question. Claims for compensation arising out of only such accidents can be entertained by the

Claims Tribunal u/s 110(1).

(emphasis supplied)

The Bench went on to consider also a contingency where the accident may have been caused not only by the negligent or careless use of the motor vehicle by the driver but also by some external agency. The Bench answered the question thus at page 19:

The question arises, as to whether the claimant before the Claims Tribunal properly moved by him for adjudication of the claim for compensation, on account of the accident caused by the negligent use of the motor vehicle can urge that the accident in question was caused not only by rash and negligent use of the motor vehicle, but also by some outside agency which contributed its mite and was also partly responsible for the causing of the accident, or, in other words, can claimant legitimately urge that there was, in addition to the motor vehicle driver who was a tortfeasor, another joint tortfeasor being some other person who might not have used any motor vehicle but nonetheless who might have contributed to the causing of the accident? As it is well settled that the Claims Tribunal has to adjudicate upon claims on the basis of the tortious liability of the tortfeasor brought before it, of necessity, such disputed claims can encompass to the adjudication of claims even against all joint tortfeasors contributing to the accident in question as they would also remain in the domain of tortious liability. It is also well settled that once it is decided that the accident in question has been caused by joint tortfeasor, two or more, each one of them would remain jointly and severally liable to meet the claim of the claimant. All these questions, therefore, can legitimately fall within the scope and ambit of the jurisdiction of the Claims Tribunal u/s 110(1) moment it is shown that the accident in question, if not wholly, at least in part, is caused by negligent use of the motor vehicle. We do not find anything in the language of Section 110(1) or any other provision of the succeeding sections to contra-indicate the legislative intention underlying conferment of exclusive jurisdiction of the Claims Tribunal for adjudication of claims for compensation in such cases. It is also interesting to note that Section 110-A which provides for procedure for applying for compensation before the Tribunal nowhere indicates as to against whom such application can be filed. As the claims before the Tribunal have to be based on tortious liability, as seen above, it necessarily follows that application can be filed against either sole tortfeasor viz. the driver of the offending motor vehicle causing the accident or against one or more of joint tortfeasors who are involved in the accident. Some of the joint tortfeasors might be agencies not utilising any motor vehicle in contributing to such accident. Consequently, claim petition can legitimately be filed not only against the driver, owner and insurer of the offending motor vehicle which has been rashly and negligently used at the relevant time for causing the accident but can also be tiled against" joint tortfeasors who might have contributed to the accident along with the driver of the motor vehicle and who by themselves may not have utilised any motor

vehicle while so contributing to the accident".

(emphasis supplied)

9. With respect we entirely endorse the opinion expressed by the learned Judges of the Gujarat High Court with regard to the scope of Section 110 as well as a composite claim for compensation based on the allegation that the death or bodily injury occurred in an accident which was caused not only by the use of the motor vehicle but some outside agency. In such cases, all the tortfeasors who may have contributed to or caused the accident may be legitimately brought before the Tribunal by means of a claim petition u/s 110 provided, of course, one of the factors contributing to the accident is the use of a motor vehicle. After a very learned and exhaustive exposition of the law on the subject, the Gujarat High Court divided the category of cases which can give rise to claims for compensation in respect of accidents involving the use of the motor vehicle as follows:

25. Let us now take stock of the situation. On the aforesaid discussion of the relevant provisions of the Act and various decisions of the High Courts, it appears clear to us that following four types of cases can give rise to claims for compensation:

I. Claims for compensation in cases where it is alleged that motor vehicle driver was solely responsible for causing accidental injuries giving rise to the claims for compensation.

II. Claims for compensation in cases of accidents where it is alleged that accident is caused not account of rash or negligent driving of driver of the motor vehicle but is solely caused on account of rashness or negligence of any outside agency who might have rashly or negligently used any vehicle other than the motor vehicle causing the accidental injuries or who might have been solely responsible for the accident even otherwise.

III. Claims for compensation in case where it is alleged that the accident giving rise to the claim is being the result of composite negligence not only of the driver of the motor vehicle but also of outside agency or driver of another vehicle which may not be motor vehicle but who might be found negligent contributing to the causing of the accident, meaning thereby, claims for compensation against joint tort-feasors, one of which at least is the driver of a motor vehicle

IV. Cases where it is alleged that accident injuries have been caused on account of composite negligence of driver of the motor vehicle as well as any other person who might be jointly responsible for causing the accident. But when ultimately, on evidence, it is found by the Tribunal that driver of the motor vehicle was not at all responsible, not even to the slightest extent and that sole responsibility for causing of the accident rested on the shoulders of the driver of the vehicle which is not a motor vehicle or on the shoulders of any other agency.

10. The Bench held that so far as the first type of cases is concerned it is the

Claims Tribunal which alone can entertain the claim u/s 110(1) of the Act and adjudicate upon it and if it was found that the motor vehicle driver was negligent, appropriate compensation can be awarded against the driver, owner and insurer of the vehicle as the case may be.

11. In regard to the second type of cases, the Bench held that the Tribunal shall have no jurisdiction to entertain the same because the claim does not allege that the accident was caused by the negligence in the use of motor vehicle.

12. So far as the third type of cases is concerned the learned Judges ruled that such a composite claim would be triable by the Accidents Tribunal on the principle that apart from the fact that the accident was caused by the negligent use of the motor vehicle, the outside agency (other than the motor vehicle) had also contributed to the accident and in such cases inter se liability can be adjudicated by the Tribunal fixing just compensation and making it payable by the joint tort-feasors, jointly or severally. Their Lordships held that thereby future litigation as regards the extent of the liability of joint-feasors can be avoided.

13. In respect of the last category of cases, the Bench held that where the accident is alleged to have been caused on account of composite negligence of the driver of the vehicle or any other vehicle or outside agency, claim for compensation would be maintainable by the Claims Tribunal but if after hearing the parties the Tribunal comes to the conclusion that the accident was caused not on account of the rash and negligent use of the motor vehicle but solely on account of negligence or rashness of some outside agency like railway engine, carts, etc. the case would go out of the purview of Section 110(1) and the Tribunal may thereupon reject the claim petition on the ground of lack of jurisdiction to award compensation.

14. Having given the matter our careful consideration we agree with the conclusion reached by the Gujarat High Court as to the circumstances in which the Claims Tribunal shall have jurisdiction to entertain petitions filed u/s 100 as well as the cases in which it shall have no jurisdiction to entertain the petition at the very threshold or subsequently on a finding that the accident was not caused by the use of the motor vehicle but solely by some outside agency.

15. The upshot of the above discussion, therefore, is that the Claims Tribunal shall have jurisdiction to entertain all claims for compensation in respect of accidents involving the death of, or bodily injuries to persons where the accident is caused by the use of the motor vehicle or the use of the motor vehicle contributes, whether by itself or along with some other joint tort-feasors, to the accident. As a corollary, this Court holds that the mere fact that the motor vehicle was involved in the accident by itself and without more would not confer on the Tribunal jurisdiction to entertain a claim. We further hold that where the claim for compensation alleges that the accident was caused by the negligence of the driver of the motor vehicle as well as by some outside agency, then too the

Tribunal shall have jurisdiction to entertain the petition provided that if the Tribunal ultimately finds that the accident was caused wholly by the outside agency and not by the driver of the motor vehicle it will cease to have any jurisdiction to grant any relief to the claimant. We also hold that where the claim petition is directed solely against outside agencies, i.e. other than the driver, owner or the insurer of the vehicle and the allegation is, as was the case before the Full Bench of the Punjab and Haryana High Court (*supra*), that the accident was caused entirely by the negligence of that outside agency, the Tribunal shall have no jurisdiction even to entertain the petition at the very threshold. The first and the second questions are answered accordingly.

16. While we are on the first and second questions we may also comment on the decision of this Court in the case of Bhagwati Prasad (*supra*) with regard to the correctness of which the learned Single Judge referring these questions had some doubt. That was a case of a composite claim. It was directed against both the owner of the motor vehicle as well as the Union of India represented by the General Manager, Northern Railway. The law enunciated in that decision will, therefore, have to be viewed in the light of the facts of that case. The majority opinion expressed by the Full Bench in the Punjab and Haryana High Court specially commented on this aspect of the case and stressed that in Bhagwati Prasad's case the claim petition being directed against the owner of the motor vehicle as well as the Union of India clearly implied that negligence was alleged against both the driver of the motor vehicle as well as the railway authorities.

17. With respect, the Punjab and Haryana High Court correctly read the implications of the decision in Bhagwati Prasad's case which was plainly an instance of a composite claim. However, in order to remove any doubt, we qualify the statement of law contained in Bhagwati Prasad's case by holding that where the accident is not alleged to have resulted from or been caused by the negligent or careless use of the motor vehicle, the Claims Tribunal shall have no jurisdiction even to entertain the petition. As observed above, mere involvement of the motor vehicle in the accident would not be enough to confer jurisdiction on the Claims Tribunal.

18. That brings us to the third question which is concerned with the effect of the provisions of Section 110-B of the Act as regards the scope of the jurisdiction of the Claims Tribunal u/s 110. On a consideration of certain decisions cited before him the learned Single Judge was of the opinion that the Claims Tribunal can entertain claims which are directed only against the driver, owner and insurer of the vehicle and not against a third party. This view of the learned Single Judge as well as of the decisions of the other High Courts on which he placed reliance was based on interpretation of Section 110-B of the Act. In Bhagwati Prasad's case this Court had occasion to consider the impact of Section 110-B on the question whether the Claims Tribunal can entertain claims directed against third parties as well, in depth. The Bench referred to the scheme of the Act as reflected by Section 110 to Section 110-F and after quoting the provisions of Section 110B,

observed thus in paragraphs 12 to 17 of the judgment:

12. We are clearly of the opinion, upon an examination of the aforesaid statutory provisions and the scheme of the enactment as projected by these provisions, that the Claims Tribunal constituted under the Act is empowered to adjudicate upon all claims for compensation in respect of accident involving the death or the bodily injury to persons, where the accident arises out of the use of a motor vehicle and, that in awarding compensation in respect of such an accident the Claims Tribunal is empowered to award compensation not only against the insurer and the owner and the driver of the motor vehicle but also against those on account of whose negligence the accident may have been caused. The words "in respect of accidents...arising out of the use of the motor vehicle..." occurring in Section 110(I) are words of the widest possible amplitude. We see no reason either on the plain language of Section 110 or in any other allied provisions or the scheme of the Act as manifested by the relevant provisions, which may have inhibited or barred the jurisdiction of the Claims Tribunal to entertain an application for compensation in respect of third parties--in the present case, the Railway.

13. As mentioned above, the Motor Vehicles Act is a comprehensive Code. The Claims Tribunals have been constituted, in our opinion, to entertain all claims in respect of accidents arising out of the use of motor vehicle. It cannot be disputed that where the death or bodily injury is caused to the claimant in an accident arising out of the use of motor vehicle and as a result of the negligence of the owner or the driver of the motor vehicle as well as of a third party, the claim so far as the owner or insurer or the driver of the motor vehicle are concerned would lie before the Claims Tribunal under the Act in terms of Section 110. The Civil Court will indisputably have no jurisdiction to entertain the claim against the insurer or owner or driver in view of the express bar imposed by Section 110--F.

14. If, therefore, we were to accept the submission of the applicant it must follow as a necessary corollary that in regard to the same accident as against the third party, the claim would lie elsewhere, namely, the Civil Court. In that event it would not be difficult to see that two conflicting decisions are likely to come into existence. The Tribunal may hold the driver of the motor vehicle wholly at fault and responsible for the accident and on that ground award compensation against the owner of the motor vehicle or the driver or the insurer. The Civil Court may, on the other hand, seized of the case against the third party in respect of same accident, may come to an exactly opposite conclusion and hold some one else responsible for the accident and bodily injuries to the claimant.

15. Such a result cannot have been intended by the legislature. On the plain language of Section 110, therefore, we have no hesitation in coming to the conclusion that the claims in question were maintainable against the Railway. In our opinion a complete adjudication of all the claims for compensation in respect of an accident arising out of the use of the motor vehicle was intended to be provided for under the Act and consequently unless all the parties involved in the

accident are arrayed as opposite parties before the same forum and are heard on the question of negligence, the matter cannot be properly and effectively disposed of. For, otherwise, if the claimant is compelled to institute his claim before the Tribunal only against the owner and driver of the vehicle and insurer and is left To sue the remaining persons responsible for the accident the adjudication cannot be against to be complete and final.

Under the circumstances, the only reasonable interpretation which has appealed to us is that suggested by the learned Counsel for the claimants, namely, that the claims were maintainable, against Railway also.

16. We may now turn to Section 110--B to see whether there is anything therein which might be construed as restricting the ambit of Section 110. The first part of Section 110--B has been expressed in general terms. It provides that the Claims Tribunal shall after giving the parties an opportunity of being heard hold an enquiry into the claim and may make an award determining the amount of compensation which appears to it to be just and specify the person or persons to whom compensation shall be paid. In the first part, which is the substantive part, there is no indication that the Tribunal cannot award any compensation against persons other than the insurer or the owner or the driver of the motor vehicle. Stress was, however, laid on the second part of Section 110--B which provides that in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or the owner or the driver of the vehicle in question. It was submitted that this Units the power of the Claims Tribunal only to these three classes of persons.

17. We are unable to accept the above contention. The second part of Section 110 comes into operation and is attracted only because it is necessary to apportion the liability between the insurer or the owner in accordance with the relevant provisions of the Act specifying the limits of liability of the insurer. It does not, in our opinion, in any way curtail or restrict the power of the Claims Tribunal to award compensation against a third party who may be found to have contributed to the accident involving the death or bodily injuries to persons arising out of the use of the motor vehicle. In our opinion, the second part of Section 110-B enjoins the Tribunal to apportion the liability between the insurer and the owner of the vehicle, where the Tribunal holds the owner or the driver responsible for the injury caused to the claimant.

19. We entirely approve of the above interpretation of Section 110-B and are clearly of the opinion that the Claims Tribunal is not confined in its jurisdiction to claims for compensation which are directed only against the driver, owner and insurer of the vehicle. Where the claim, is founded on the assertion that the accident was caused by, apart from the use of the motor vehicle, some third party, the Tribunal shall undoubtedly have jurisdiction to entertain the claim even though it is directed against a third party. In our opinion, what gives jurisdiction to the Tribunal is that the claim must be in respect of accidents involving the death of, or bodily injury to, persons caused or contributed by the use of motor

vehicle whether wholly or conjointly with some third party. As observed in Bhagwati Prasad's case, the legislative intent behind the latter part of Section 110-B was to cast a duty on the Tribunal to specify the amount of compensation and apportion it between the insurer or the owner or the driver of the vehicle in question.

20. The interpretation which we are inclined to accept is fully supported by the Full Bench decision of the Punjab and Haryana High Court in Rajpal Singh's case (supra). S.P. Goel, J. after referring to all the decisions taking a contrary view as to the interpretation of Section 110-B and its effect on the scope of Section 110 stated the law vide paragraph 30 of the judgment thus:

30. In all the above noted cases in which the view has been taken that a claim petition against the persons other than the owner, driver and the insurer is not maintainable before the Tribunal under the Act, reliance has been placed on that part of Section 110-B which provides that in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be. This provision, in my view, in no way indicates either that the jurisdiction of the Claims Tribunal is confined to give award against the insurer, or owner or driver or curtails the jurisdiction conferred on the Tribunal under the earlier portion of the section which authorizes him to determine the amount of compensation to be payable to the claimants or any one of them. The latter portion of this section requires specification of the liability amongst the insurer or owner or driver because it has relevancy only amongst them. On the question of apportionment, if the liability is found to be composite of the owner, driver or insurer of the vehicle on the one hand and some other party on the other, the question of apportionment between the two set of parties would not arise. Similarly, if the liability to pay compensation is entirely fixed on a party other than the owner, driver or the insurer of the motor vehicle, again the question of apportionment would not arise. It is for this reason that the apportionment clause is confined to the insurer or owner or driver of the vehicle and the other persons are not named in that provision and not because the intention was to limit jurisdiction of the Tribunal to award compensation against the said three persons only.

(emphasis supplied).

21. Tewatia, J. (as he then was) who delivered the minority opinion, also approved the interpretation placed by this Court in Bhagwati Prasad's case on the scope and effect of Section 110-B of the Act. There was thus complete unanimity among the three learned Judges constituting the Full Bench in Rajpal Singh's case as to the impact of Section 110-B on the question whether the Claims Tribunal is competent to entertain a claim for compensation which is directed not only against the owner, driver and the insurer of the vehicle but also third parties. The Full Bench of Punjab and Haryana High Court disapproved of the decisions of the Himachal Pradesh High Court in Bhola Ram v. State of

Himachal Pradesh AIR 1982 HP 99 , Madan Lal Jain Vs. Municipal Corporation of Delhi and Others, , Swarnalata Dutta Barua and Another Vs. National Transport India Pvt. Ltd. and Another, , The Oriental Fire and General Insurance Company Ltd. and Another Vs. Union of India (UOI), in so far as the purpose and scope of Section 110-B is concerned. The reasons why the Full Bench was not inclined to accept the construction put by these High Courts on Section 110-B have already been quoted above.

22. With respect we entirely agree with the decision of the Punjab and Haryana High Court as to the effect of Section 110-B on the power of Claims Tribunal to entertain petitions for compensation which are directed against third parties in addition to the driver, owner and the insurer of the vehicle. It may be recalled that in the case before the Punjab High Court the claim petition was directed solely against the Railways and there was no allegation that the use of the motor vehicle had, in any way, contributed to the cause of the accident. It was for this reason that the majority held that the claim petition in question was not entertainable by the Tribunal.

23. In addition to the reasons which were given by this Court in Bhagwati Prasad's case and approved by us as well as those rendered by the Full Bench of Punjab and Haryana High Court as well as the Gujarat High Court (supra) we may also refer to Section 110E of the Act which also supports the view we are inclined to take, namely, that the Tribunal is not confined in its jurisdiction to entertain claim petitions against the driver, owner and the insurer of the vehicle.

Section 110-E provides:

110-E Recovery of money from insurer as arrear of land revenue--Where any money is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the money, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

24. The words "any person" in the above provision clearly indicate the legislative scheme which suggests that compensation may also be awarded against persons other than driver, owner or the insurer of the vehicle.

25. The learned Judge referring the questions was influenced by three decisions, viz. Bholi Ram and Another Vs. State of Himachal Pradesh and Another, , Oriental Fire and The Oriental Fire and General Insurance Company Ltd. and Another Vs. Union of India (UOI), and Ellammal and Another Vs. Government of Tamil Nadu and Others, . The first two of these decisions have already been commented upon by the Full Bench of the Punjab and Haryana High Court and as we are in agreement with the view expressed by that Full Bench, it is unnecessary to repeat the reasons which have persuaded us to hold that Section 110-B does not have the effect of whittling down the scope of Section 110 so as to be confined to the claims directed only against the driver, owner and the insurer of the vehicle. As regards the decision of the Madras High Court cited

above, with great respect, we do not agree with its interpretation of Section 110--B. We have already elaborated our reasons for taking the contrary view. Further the construction which we are inclined to place on the effect of Section 110-B on the scope and jurisdiction of the Claims Tribunal u/s 110(1) to entertain claim petitions against third parties as well finds full support from the opinion expressed by the Full Bench of the Punjab and Haryana High Court. With respect, we prefer the opinion expressed by Full Bench of Punjab and Haryana High Court to the interpretation sought to be placed on Section 110-B by Madras High Court.

26. Our answer to the third question, therefore, is that Section 110-B does not have the effect of whittling down the width and ambit of the jurisdiction of the Claims Tribunal u/s 110(1) so as to confine it to claims directed only against the driver, owner and the insurer of the vehicle the use of which caused the accident and that the Claims Tribunal can entertain petitions for compensation also against third parties in addition to these three persons.

27. The answers to the first and second questions have already been given in the earlier part of our opinion.

28. As the learned Single Judge has referred only three questions to us we are remitting the appeals back to him with our opinion.