
(1981) 03 AP CK 0015
In the Andhra Pradesh High Court
Case No : C.R.P. No. 676 of 1980

Union of India (UOI)

APPELLANT

Vs

T. Madhusudan Swamy

RESPONDENT

Date of Decision : 03-03-1981

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 195
Limitation Act, 1963 — Section 10, 11, 12, 13, 14
Railways Accidents (Compensation) Rules, 1990 — Rule 11, 12, 13, 27
Railways Act, 1989 — Section 82B, 82C, 82D, 82E, 82F

Citation : (1981) 03 AP CK 0015

Hon'ble Judges : Jeevan Reddy, J

Bench : Single Bench

Advocate : I. Koti Reddy, for the Appellant; G. Venugopala Rao, for the Respondent

Final Decision : Allowed

Judgement

Jeevan Reddy, J.—The only question that arises for consideration is:

Whether Section 5 of the Limitation Act applies to proceedings before the Claims Commissioner appointed u/s 82-B of the Indian Railways Act ?

Section 82-B empowers the Central Government to appoint by notification in the official gazette "any person to be a Claims Commissioner for such local areas as may be specified in the notification". Section 82-C provides for filing of an application for compensation. Sub-section (2) which is relevant for the present purposes, reads as follows:

(2) No application for compensation under this section shall be entertained unless it is made within three months of the occurrence of the accident but the Claims Commissioner may on good cause shown allow any application to be made at any time within one year of such occurrence.

Section 82-D says that while enquiring into a claim for compensation, the Claims

Commissioner shall follow such summary procedure as he thinks fit subject to the rules made in that behalf. The Claims Commissioner is clothed with all the powers of a civil Court for the purpose of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects. He is deemed to be a civil Court for the purpose of Section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898. Section 82-J empowers the Central Government to make rules to carry out the objects of Sections 82-C to 82-H. Rules have accordingly been made which are called "The Railway Accident (Compensation) Rules, 1950". Part II of these rules provides the qualification for Commissioners and their appointment and conditions of service. Part 3 provides the rates of compensation, while part 4 prescribes the procedure which should be followed by the Claims Commissioner. Rule 11 provides that every application for compensation u/s 82-C shall contain, the prescribed particulars. Rule 13 provides that the Commissioner may, after considering, the application and the statement, if any, of the applicant recorded under Rule 12 summarily dismiss the application, if he is of the opinion that there are no grounds to proceed further with it. If, however, he is satisfied that the matter calls for an enquiry, he shall issue notice to the opposite party, examine him when he appears, frame the issues, receive evidence and after local inspection, if found necessary, pass final orders. The Commissioner has the discretion in the matters of allowing the legal practitioners to appear before him. Rule 27 provides:

27. CPC to apply in certain cases in so far as these rules make no provision or make insufficient provision, the Commissioner shall follow the procedure laid down in the Code of Civil Procedure, 1908 (V of 1908), for the trial of suits.

2. Section 5 of the Limitation Act, 1963, empowers the Court to admit any appeal or application, other than those provided by Order 21 of CPC even after the expiry of the prescribed period if the Appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within the prescribed period. Section 29(2) says that where any special or local law prescribes any period of limitation different from the period prescribed by the Schedule to the Act, the provisions of Section 3 shall apply as if such period was prescribed by the Schedule to the Act and that the provisions of Sections 4 to 24 shall apply in that behalf in so far as and to the extent to which they are not expressly excluded by such special or local law.

3. The applicability of Section 5 by virtue of Section 29(2) to Tribunals which are not civil Courts was considered by a Division Bench of this Court (to which I was a party) in *K. Venkaiah and Others Vs. K. Venkateswara Rao and Another*, . There too the authorities under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950, were clothed with the powers of the civil Court in the matter of enquiry. Yet the Division Bench held that the Tribunal not being a civil Court, the Limitation Act does not apply. Under the Railways Act too, there is little doubt that the Claims Commissioner is not a civil Court though he is clothed

with certain powers of the civil Court mentioned in the Code of Civil Procedure. Moreover, Sub-section (2) of Section 82-C not only provides the period within which an application for compensation should be filed but it also provides for condoning the delay on sufficient cause being shown. The Sub-section, however, places a ceiling upon the period which could be condoned, which means that in no case, shall any application be entertained after the expiry of one year of the occurrence. In such a situation the application of Section 5, which does not recognise any such ceiling, may mean a further extension of time, even beyond the period of one year prescribed by Sub-section (2). In other words, Section 5 of the Limitation Act is inconsistent with Section 82-C (2) of the Railways Act. In any event, as mentioned earlier the Claims Commissioner, not being a civil Court, the Limitation Act has no application to it.

4. For the above reasons, the order of the Court below condoning the delay beyond one year period u/s 5 of the Limitation Act is set aside as incompetent and without jurisdiction. The civil revision petition is accordingly allowed. In the circumstances of the case, there will be no order as to costs.