
(1979) 09 MAD CK 0015
In the Madras High Court

Varalakshmi Sundar and Others

APPELLANT

Vs

Meeran and Another
Krishnammal and Others Vs
Janardhanan and Another

RESPONDENT

Date of Decision : 12-09-1979

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : (1980) 93 LW 540 : (1980) 2 MLJ 106

Hon'ble Judges : V. Ratnam, J

Bench : Division Bench

Judgement

V. Ratnam, J.—In Transfer C.M.P. No. 7753 of 1978, the petitioners seek the transfer of M.O.P. No. 105 of 1976 on the file of the Motor Accidents Claims Tribunal at Chingleput to the file of the Motor Accidents Claims Tribunal, Madras. The accident which had given rise to the claim for compensation took place on 5th May, 1976 in the Grand Southern Trunk Road, Alandur, Chingleput District. The claim has been properly preferred before the Motor Accidents Claims Tribunal at Chingleput, having regard to the place of accident. The ground on which the transfer is sought for is that the petitioners are put up at Alwarpet in Madras and the witnesses who have to be examined in connection with the claim for compensation, now pending before the Motor Accidents Claims Tribunal at Chingleput are also in Madras and therefore, it will be difficult for the petitioners and the witnesses to attend the Motor Accidents Claims Tribunal at Chingleput and that if the proceedings are transferred to Madras, it will be easier for the petitioners to attend to the proceedings. It is also further stated in the affidavit that a prior application for transfer in C.M.P. No. 10546 of 1976 was dismissed on 14th November, 1977, as not pressed.

3. The respondents raised an objection that Section 24 of the CPC does not apply to the proceedings under Motor Accidents Claims Tribunal as it is not a Court and there is no jurisdiction in the High Court to order a transfer as prayed for.

4. In Transfer C M. P. No. 363 of 1979, the petitioners seek a transfer of M.O.P.

No. 277 of 1975 from the file of the Motor Accidents Claims Tribunal, Chingleput. to the file of the Motor Accidents Claims Tribunal, Madras. That claim has arisen out of an accident which took place on 5th April, 1975 in the Grand North Trunk Road near Sholavaram within the jurisdiction of the Motor Accidents Claims Tribunal, Chingleput. There again the petitioners have stated that they are all residents of Villivakkam and the owner of the vehicle is a resident of Madras and the Insurance Company has also office at Madras and, therefore, for the convenience of all parties, M.O.P. No. 277 of 1975 should be transferred from the file of the Motor Accidents Claims Tribunal at Chingleput, to the file of the Motor Accidents Claims Tribunal at Madras. It is also mentioned that a connected M.O.P. No. 287 of 1975, arising out of the same accident had been transferred by orders of this Court in C.M.P. No. 12475 of 1976 to the Motor Accidents Claims Tribunal at Madras and numbered as O.P. No. 356 of 1977. Reference is also made to the dismissal of another C.M.P. No. 13335 of 1976 for transfer of M.O.P. No. 277 of 1973. Another ground urged in support of the transfer is that such a course will also help to avoid conflict of decisions by different Courts. Here again, an objection was raised that proceedings pending before the Motor Accidents Claims Tribunal cannot be transferred by resorting to Section 24 of the Code of Civil Procedure. Since the objection that is raised in both these petitions is the same, these applications are disposed of by a common order though the accidents out of which the claims have arisen have occurred on different dates and the parties are also not the same.

5. In order to appreciate the objection raised by the respondent, it is necessary to go into the statutory provisions under which the Accidents Claims Tribunals have been constituted. These Motor Accidents Claims Tribunals are special tribunals charged with the duty of adjudicating upon claims for compensation arising out of accidents. u/s 110 of the Motor Vehicles Act, the State Government is empowered to constitute one or more Motor Accidents Claims Tribunals for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation 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, or both. u/s 110(1) of the Motor Vehicles Act, the power to constitute Accidents Claims Tribunals as well as the area over which such a Tribunal can exercise jurisdiction in respect of claims arising out of accidents within that area by notification is exercisable by the State Government. In the exercise of this power, the State has constituted several Accidents Claims Tribunals for different areas with well defined territorial jurisdiction. It must also be pointed out that the Motor Accidents Claims Tribunals are Tribunals of exclusive jurisdiction for the purpose of entertaining and adjudicating upon claims arising out of accidents. Indeed, care has been taken to see that there is no overlapping of the functions and the area of the Accidents Claims Tribunals as constituted; but the constitution has been so done as to secure at least a minimum of one Accidents Claims Tribunal for a particular area but depending upon the frequency of accidents and the increasing number of claims in relation

thereto it is possible that there may be more than one Accidents Claims Tribunal subject of course, to the distribution of business by the Government. Normally, the claims for compensation arising out of accidents in a particular area or locality have to be preferred before the Motor Accidents Claims Tribunal within whose territorial jurisdiction the accident giving rise to a claim for compensation has occurred. If such a claim is made, the Accidents Claims Tribunal constituted for that area has necessarily to exercise its jurisdiction and investigate into the merits of the claim for compensation. It must also be stated that since Accidents Claims Tribunal are functionaries of exclusive jurisdiction over a specified area, they cannot arrogate to themselves jurisdiction to deal with claims for compensation arising out of accidents outside their territorial jurisdiction. Even under the provisions of the Motor Vehicles Act, there is no provision for a superior Court or body or even a Tribunal clothed with power of transfer and to exercise such a power of transfer or proceedings from one Tribunal to another. The very essence of the constitution of an Accidents Claims Tribunal is to take away the jurisdiction of the civil Court in relation to matters committed to the jurisdiction of such Accident Claims Tribunals. It is also clearly enumerated in Section 110-F of the Motor Vehicles Act, which prohibits a civil Court from entertaining any question relating to a claim for compensation which may be adjudicated upon by the claims Tribunal for that area. The position, therefore, is clear that the civil Court has nothing to do with the claim for compensation cognisable by the Accidents Claims Tribunal with reference to an area for which an Accidents Claims Tribunal has been constituted in the exercise of the powers u/s 110(1) of Motor Vehicles Act. From the anxiety exhibited in the statutory provisions to remove as it were, the claims for compensation from the purview of the civil Court, it is difficult to conceive of a power of transfer with reference to such proceedings in civil Court. It may be that proceedings before the Accidents Claims Tribunal are proceedings of a civil nature and that the provisions of the Motor Vehicles Act permit an appeal or revision depending upon the quantum of compensation to the High Court. But that is only the exercise of the appellate or revisional power as the case may be by the High Court provided for under the Motor Vehicles Act. The mere circumstance that the High Court is the appellate or revisional authority does not, in my view, empower it to exercise powers of transfer over claims for compensation arising out of accident, as in regular suits of a civil nature before a civil Court. Section 110-D of the Motor Vehicles Act, which constitutes the High Court as an appellate authority, cannot be read as either conferring or including a power to transfer pending proceedings before the Accidents Claims Tribunal. The Appellate or Revisional Jurisdiction springs into existence after the conclusion of the proceedings before the Tribunal and conferment, therefore, of the appellate or revisional powers to the High Court cannot be construed as empowering the High Court to transfer proceedings pending before the Accidents Claims Tribunal. There does not also appear to be any powers of supervisory jurisdiction over the Accidents Claims Tribunals, excepting perhaps to the limited extent to which it is necessary to do so in the exercise of the appellate or revisional jurisdiction of the High Court, as the ease

may be. It is also difficult to conceive of an Accidents Claims Tribunal of exclusive jurisdiction constituted under the provisions of the Motor Vehicles Act as "a Court" though it may be that it is subordinate to the High Court and that the same judicial officer presiding over a civil Court is also empowered to adjudicate upon claims for compensation arising out of accidents as a Motor Accidents Claims Tribunal.

It is also important to note that powers of the same judicial officer while acting as a "Court" and also as an Accidents Claims Tribunal are not the same. In the latter case, the Accidents Claims Tribunal has only specified powers as are enumerated or has been conferred upon it, specifically either by the statute or by the rules, whereas the civil Court has got plenary powers as such. On the other hand, a Motor Accidents Claims Tribunal is not a Court in the view taken by Raina, J., in Krishan Gopal Devi Prasad and Others Vs. Dattatraya Madho Lad, and Balasubrahmauyan, J. in Annamalai v. Doraiswami Mudaliar and Anr. Transfer C.M.P. Nos. 8915 of 1978, 8940 of 1978 and 8950 of 1978, on the file of this Court and I respectfully agree with that view.

6. In the result, the Transfer C.M.P. Nos. 7753 of 1978, 7754 of 1978 and 363 of 1979 u/s 24 of the CPC are misconceived and are dismissed.