

**Central Coalfields Ltd. and anr. Vs. Uma Devi and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/124138](http://sooperkanoon.com/124138)

**Court :** Patna

**Decided On :** May-01-1997

**Judge :** P.K. Deb, J.

**Appeal No. :** A.F.O.O. No. 686 of 1990 (R)

**Appellant :** Central Coalfields Ltd. and anr.

**Respondent :** Uma Devi and ors.

**Advocate for Def. :** Shamim Akhter, Adv.

**Advocate for Pet/Ap. :** M.M. Banerjee, Adv.

**Disposition :** Appeal dismissed

**Prior history :** Prasun Kumar Deb, J. 1. This appeal has been preferred against the judgment and award dated 27.10.1990 passed by the then Additional Claims Tribunal, Hazaribagh, in Suit No. 79 of 1986, whereby compensation to the tune of Rs. 1,00,000/- has been ordered to be paid by the appellant No. 1 with interest at the rate of 12 per cent per annum from the date of institution of the case till its realisation. 2. The appellant No. 1 is a Government company and a mining lessee in the State of Bihar in resp

**Judgement :**

**Prasun Kumar Deb, J.**

1. This appeal has been preferred against the judgment and award dated 27.10.1990 passed by the then Additional Claims Tribunal, Hazaribagh, in Suit No. 79 of 1986, whereby compensation to the tune of Rs. 1,00,000/- has been ordered to be paid by the appellant No. 1 with interest at the rate of 12 per cent per annum from the date of institution of the case till its realisation.

2. The appellant No. 1 is a Government company and a mining lessee in the State of Bihar in respect of various mines in the district of Hzaribagh. The appellant No. 1 company has got Terex machine which is used within the mine area to carry the overburden and dump the overburden outside. The Laiyo Jharkhand Project from where the case has arisen has got four such Terex machines. A claim was lodged by the claimant Uma Devi, that one Baleswar Singh, the husband of claimant-respondent No. 1 and the father of the other claimants, while going to the Jharkhand Colliery on 17.1.1986 was dashed by one Terex No. MD 1358 and due to such dashing he died being injured and as such, claim case was filed under Section 110-A of the Motor Vehicles Act, 1939 ('the Act').

3. In the written statement filed, the appellant company took the plea that Terex is not a 'vehicle' as defined under the Act and as such the claim case is not maintainable under the Act and further case was that one Megan Mahto was under Fitter Helper Category II and he was not authorised to run Terex.

4. In support of its case, the appellant company examined one witness, namely, Shrikant Sinha and the claimant's side examined five witnesses in support of her case. After considering the evidence on record, the learned Tribunal held that the accident occurred due to the rash and negligent driving of the Terex and that Terex machine is a 'motor vehicle' within the definition of the Act and hence held the appellant company liable to pay compensation of Rs. 1,00,000/- with interest at the rate of 12 per cent per annum.

5. In the appeal Mr. M.M. Banerjee, appearing for and on behalf of the appellants, has pressed only one point to the effect that the Terex machine, although it looks like a vehicle, is not a vehicle and as such it does not come within the definition of Section 2(18) of the Act. He has also referred to a letter (Exh. A) of the State Government by which it was held that the vehicle which runs only within the mining

area is exempted from tax. Mr. Banerjee has also tried to impress upon the Court by showing a picture of Terex machine from different angles that although the machine looks like a motor vehicle, it is not a vehicle. On the other hand, Mr. Shamim Akhter, appearing for and on behalf of the respondents-claimants has argued that this Terex machine although termed by the appellant as 'machine' but it is nothing but a dumper and now a dumper is included within the definition of motor vehicle.

6. Mr. M.M. Banerjee in support of his contention has referred to a decision of the Supreme Court in the case of Chief General Manager, Jagannath Area v. State of Orissa (1996) 10 SCC 676, wherein it was held that dumpers and rockers are motor vehicles and although they ply within the mining area alone, there must be levy of tax on such vehicles. According to him, in the judgment, the matter related to levying of taxes and from the discussions in the judgment, it could be found that the dumpers and rockers are although in the form of motor vehicles but they are not the motor vehicles. On the other hand, Mr. Akhter, appearing for and on behalf of the respondents-claimants, has referred to decisions of the Supreme Court in the case of Union of India v. Chowgule and Co. (P) Ltd. AIR 1992 SC 1376 and Bolani Ores v. State of Orissa AIR 1975 SC 17 and also another decision in Central Coalfields Ltd. v. State of Orissa AIR 1992 SC 1371. All the judgments of the Supreme Court, as submitted by Mr. Shamim Akhter and also by Mr. Banerjee, relate to levying of tax and the dumpers, rockers and showells which, although specially designed vehicles like machines and manufactured only for the purpose of moving within the mining area, are not said to be free from levy of tax as they are also motor vehicles. According to Mr. Banerjee, even if it is motor vehicle, it was not suitable for the purpose of moving outside the mining area and as such the provisions of claim cases are not attracted. By this he wanted to take the plea of private place and public place regarding occurrence of accident although he has not specifically urged that point. A motor vehicle is a wheeled conveyance propelled mechanically for particular use on the road, whether the power of propulsion is transmitted within the internal or external area, it remains as a motor vehicle. The purpose of the company might be for propelling/using of the Terex within the mining area but if it has gone outside and caused damage or accident then definitely it would come within the purview of the Claims Tribunal for the

purpose of compensation.

7. Admittedly, in the present case, the Terex was moving outside the area where the accident took place and, therefore, it cannot be said that it never goes outside the mining area, at least on the date of occurrence, it had plied outside the mining area. Plying within, inside, or outside the area might be questioned for the purpose of levying tax, but for the purpose of definition of the motor vehicle, Terex cannot be said to be not a motor vehicle but a machine for carrying overburden from one area to another area within the mining area itself. From the submissions and the statement filed by the company, it has always used Terex as a conveyance and it has got all the required components of the vehicle having engine, wheels, etc., although not made up like tyres of a motor vehicle but for all practical purposes, it remains a conveyance for carrying goods or overburden, whatever it may be. When all components of motor vehicles are attached to Terex and when it is mechanically plied by engine then it comes within the definition of 'motor vehicle'. Regarding outside or inside area in this particular case, it has plied outside the mining area while causing the accident. This also takes away the case of the appellants that such Terex was not allowed to ply outside the area.

8. Thus, in this appeal, I do not find any force and hence the same is rejected but, in the circumstances, no order as to costs.

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