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Court : Himachal Pradesh

Decided On : Aug-16-1989

Reported in : I(1990)ACC248,1990ACJ24

Judge : Bhawani Singh, J.

Appeal No. : F.A.O. (MVA) No. 37 of 1982

Appellant : Karam Singh and ors.

Respondent : Beas Satluj Link Project Through Chief Engineer

Advocate for Def. : P.A. Sharma, Adv.

Advocate for Pet/Ap. : K.S. Patyal, Adv.

Disposition : Appeal allowed

Judgement :

Bhawani Singh, J.

1. This case has a sad commentary. The claimants are the father (72), young widow and the son of the deceased, Hakam Singh, who died in a motor accident on 11.5.1975. He was the only bread-earner of the family and was working as a carpenter in Beas Satluj Link Project, Sundernagar at the time of the accident. By the death of Hakam Singh, the family has been rendered totally helpless and

without any source of income.

2. A claim petition was moved on 10.11.1975 before the Motor Accidents Claims Tribunal, Bilaspur, against the Beas Satluj Link Project, Sundernagar, through the Chief Engineer, Sundernagar Township and against Karam Singh, driver of truck No. RL 267. The application was dismissed by the Tribunal on 22.12.1981 on the ground that no proper respondent was on the record. The Tribunal has observed that in the beginning, the claimants had arrayed the Executive Engineer, Beas Satluj Link Project, Bharari Tunnelling Division, Sundernagar, as respondent and later on Superintending Engineer (Admn.) B.S.L. Project, was made the respondent. These respondents, according to this order, did not appear to have contested the application on the ground that the truck did not belong to them and the same belonged to the Beas Satluj Link Project. The claimants were asked to bring the proper respondents on the record and instead of doing so, they amended the petition on 20.11.1981 and the Superintending Engineer, B.S.L. Project and the driver of the truck were made respondents. Thereafter, by another application dated 22.12.1981, the Chief Engineer, B.S.L. Project, Sundernagar, General Manager, Beas Project, Talwara and Secretary, Beas Construction Board, New Delhi, were sought to be made as respondents. In these circumstances, the Tribunal observed as follows:

This all shows that the petitioners are still groping in the dark and they are yet not sure as to who should be the proper respondents in this petition. Even the present petition does not appear to be in order since to my mind, it is B.S.L. Project, Sundernagar who should have been sued through its proper representative like Chief Engineer. This, however, has not been done. I feel that it is futile to continue this petition any longer. I, therefore, dismiss the same for non-prosecution.

3. A perusal of this order indicates that the Tribunal was of the opinion that the Beas Satluj Link Project, Sundernagar, was the party to be sued through its Chief Engineer. A bare reading of the earlier part of this very order indicates that the claimants, in their application dated 22.12.1981, had added the Chief Engineer, B.S.L. Project, Sundernagar, General Manager, Beas Project, Talwara, and Secretary, Beas Construction Board, New Delhi, as respondents. In these

circumstances, the Tribunal was clear as to the party against whom this claim petition was preferred and the claimants had also made them as parties. As such, it is not understood why this claim petition has been dismissed by the Tribunal. Even if the Superintending Engineer was added as party, still that could have made no difference as the award, if any, made in the case could not be personally executed against him as the liability was of the institution. Similarly, the Tribunal could have ascertained and established the real parties during the trial and at the time of fixing the liability to pay the compensation. I am constrained to observe that the Tribunal has dealt with this matter in a very casual, callous and unique fashion. It did not bother to see that the claimants were poor persons. They were illiterate rustic villagers and did not know the nature of the institution and the functionaries to be added as parties in this case. Even today, it is not easy to many, even literate persons, to understand these various institutions like the Beas Construction Board, Bhakra Beas Management Board, Beas Satluj Link Project etc. etc. and the authorities manning them and the nature of their existence. When it is a puzzle to many of the educated people, how can persons like the claimants understand them. In such a case, it was not only the function but also the duty of the Tribunal to have found out the real persons to be impleaded as respondents in the present petition and instead of asking them to file application upon application, it should have moved to add the real respondents to be parties in the case and gone ahead to decide the matter in accordance with law. But no such thing has been done and the matter has been dismissed by this order. The accident took place on 11.5.1975 and more than fourteen years have passed. The claimants have not been able to get any compensation for the death of the only bread-earner in the family. During the course of arguments, it was ascertained and then agreed by the counsel for the parties that the proper respondents in this case would be Union of India through the Secretary, Ministry of Energy, New Delhi, and Beas Construction Board, through the Chief Engineer, Beas Satluj Link Project, Sundernagar.

4. Mr. K.S. Patyal, who appears for the appellants, submits that the claimants are absolutely poor rustic villagers and they have lost every strength to pursue this matter after fourteen years for want of money. In these circumstances, he urges that in view of the fact that the accident had taken place and the deceased died in

this accident and the truck driven by Karam Singh, respondent, was owned by B.S.L. Project, some compensation by invoking the principles of Section 92-A of the Motor Vehicles Act, 1939, be allowed to the claimants at this stage.

5. Section 92-A of the Act is a beneficial piece of legislation and envisages quick and effective relief to the victim of an accident or his legal representatives in case of death. This provision has been the subject-matter of interpretation and application in a number of judicial pronouncements. Three of them are, *Devji v. Anwarkhan* 1989 ACJ 567 (MP), *Karuram v. Omprakash* 1989 ACJ 941 (MP) and *Oriental Fire & General Ins. Co. Ltd. v. Shantabai S. Dhume* 1987 ACJ 198 (Bombay). Looking to the chequered history of this case, period spent by the claimants to this date in agitating their claim for compensation, their poverty and the object behind Section 92-A of the Act, I am of the opinion that it is a fit case where the Beas Construction Board through the Chief Engineer, B.S.L. Project, Sundernagar (respondent) is directed to pay Rs. 15,000/- to the claimants-respondents within a period of one month from today. In the event of the claim being allowed subsequently by the Tribunal, this amount of Rs. 15,000/- will form part of the total amount of compensation arrived at in this case. In case of the claim being disallowed, the claimants will not be called upon to refund the same to the respondents.

6. Union of India through the Secretary, Ministry of Energy, New Delhi and Beas Construction Board through the Chief Engineer, B.S.L. Project, Sundernagar are added as party-respondents in this case and in case any other party is named by the respondents for the claim, that may be also added by the Tribunal as one of the respondents. However, intra-departmental or inter-institutional issues will not be permitted to defeat the claim of the claimants-respondents since it would be open for the authority called upon to pay the claim amount to realize the same from any other body or institution that may be responsible for the same in accordance with the constitution and work of their department.

7. In view of the aforesaid discussion, this appeal is allowed. Order of the Motor Accidents Claims Tribunal is set aside and it is directed to register the claim application to its original number and proceed with the matter accordingly. The

matter being old, it is expected that the Tribunal will decide the same within a period of three months. The respondents will pay Rs. 1,000/- as costs of this petition to the claimants.

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