

CLAIM OF COMPENSATION BEFORE MOTOR CLAIMS TRIBUNAL :
JURISDICTION

(A. P. Bhargale, J.)

MANOHAR MARUTI GHULE and another

Appellants.

vs.

DANG SANJEEV and others

Respondents.

Motor Vehicles Act (59 of 1988), S. 168 — *Claim under section 163-A filed before Motor Accident Claims Tribunal, Mumbai — Jurisdiction of Court — Accident had occurred as a result of use of motor vehicles — Residence of claimant determines jurisdiction of Tribunal — Applicants-claimants were residing at the specified address in Mumbai — Owners and insurers also shown as residents of Mumbai and having their addresses in Mumbai — Motor Accident Claims Tribunal, Mumbai could entertain and decide claim petition on merits — Jurisdiction of Tribunal with respect to terminologies used in Act is wider than the Civil Court — Impugned judgment and order set aside and claim petition is required to be decided on its own merits. (Paras 6 and 7)*

For appellants : *T. J. Mendon*

For respondent No. 2 : *Vivek Kantawala a/w Kantawala and Co.*

For respondent No. 3 : *D. Shalini Shankar*

JUDGMENT :— The appeal is against the judgment and order dated 6-3-2003 passed by learned member, Motor Accident Claims Tribunal at Mumbai in Claim Application No. 367 of 2003 whereby the claim under section 163-A of the Motor Vehicles Act for sum of ₹ three Lakhs was dismissed.

2. Heard submissions at the Bar.

3. Facts are :—

Mrs. Sneha Pradeep Vaikar, aged 19 years, married daughter of the claimants was travelling by Fiat Car MH-01-P-2857 with her Husband Pradeep and Krishna Ghule on 4-11-2000 on Pune Mumbai Road. The Motor Tempo bearing Registration No. MH-12-R-7493 collided with it. Sneha died as result of the accident while her Husband Pradeep died and their Son Krishna were seriously injured. It is case of the appellants that their daughter was working in Vinay Roadways and earning sum of ₹ 2500 to 3000/- per Month.

4. The contention on behalf of the appellants is that claim tribunal held that Insurer gave their address at New Mumbai. And applicants gave their address in Punekar Chawl, D. P. Wadi, Ghodapdeo, Mumbai while in Application No. 366 of 2003 applicants gave their address in at Navi Mumbai. That application was entertained and decided by the Tribunal on merits. On the ground that the address was changed without signature of the Registrar/Authority, the Tribunal refused to entertain the claim under the appeal and declined to exercise the jurisdiction vested in it to decide the claim application on merits and in accordance with law.

5. We need to refer section 163A of the M.V. Act. It reads thus :—

Special provisions as to payment of compensation on structured formula basis. — (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer

shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation. — For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923.

(2) In any claim for compensation under sub-section (1) the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

6. Reading the provision as it is, any legal heir is entitled to claim compensation awardable under the Act. Prima facie, it cannot be said that the parents of the victim daughter, though she was married, were not her legal heirs, particularly when her husband was no more living. The question needs full consideration on the basis of evidence led by the parties in the claim application. The Motor Vehicles Act is a special statute with social welfare objectives. The jurisdiction of the Motor Accident Claims Tribunal having regard to the terminologies used in the Act must be held to be wider than the Civil Court. A claimant has a wide option. Residence of the claimant also determines jurisdiction of the Tribunal. Averments in the claim did mention that the applicants were residing at the specified address in Mumbai. Owner and insurers were also shown as resident of Mumbai and having their addresses in Mumbai as mentioned in the cause title of the Claim application. The accident in question had occurred as a result of the use of the motor vehicles. That being so, learned Member clearly erred in law in refusing to entertain and decide the accident claim application on merits. The companion Accident Claim Application No. 366 of 2003 was in respect of the same accident. It was heard and decided on merits by learned Member of the Tribunal.

7. The present Accident Claim Application No. 367 of 2003 is also required to be decided on its own merits and according to law. Hence following order is passed :

ORDER

Impugned judgment and order is set aside. Learned Member of the Motor Accident Claims Tribunal, Mumbai, shall entertain and decide the application on its own merits and in accordance with law. The parties to appear before the Motor Accident Claims Tribunal on 28th October, 2013 at 11 a.m. and the Tribunal shall after giving opportunity of hearing to the parties to lead additional evidence if any, decide the Claim application as early as possible preferably within six months from the date of receipt of the writ from this Court.

Order accordingly.
