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## **Dinesh Chandra Somani Vs Motor Accidents Claims Tribunal and Others**

**Civil Writ No. 4468/2000**

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**Court:** Rajasthan High Court

**Date of Decision:** July 24, 2015

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) - Section 195(1), 340#Motor Vehicles Act, 1988 -  
Section 166, 167#Penal Code, 1860 (IPC) - Section 177, 193, 199, 200, 209

**Citation:** (2015) 4 WLN 17

**Hon'ble Judges:** Arun Bhansali, J.

**Bench:** Single Bench

**Advocate:** M.S. Singhvi, Senior Advocate assisted by Abhishek Mehta, Advocate, for the  
Appellant

**Final Decision:** Allowed

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### **Judgement**

Arun Bhansali, J.

This writ petition has been filed by the petitioner aggrieved against order Dt. 20.11.2000 passed by Motor Accidents

Claims Tribunal, Bhilwara ("the Tribunal"), whereby, the findings have been recorded against the petitioner and the Tribunal has  
directed

summoning of the petitioner for enquiry under Sec. 340 Cr.P.C. The petitioner, an Advocate, represented one Harak Lal in a  
petition for

compensation under Sec. 166 of the Motor Vehicles Act, 1988 ("the Act").

2. During the pendency of the petition, an application came to be filed by the insurer-Oriental Insurance Company Limited, inter  
alia, contending

that the claimant had received a sum of Rs. 1,61,724/- for the damage to the Jeep by filing Complaint No. 2/1998 before the  
District Consumer

Disputes Redressal Forum, Bhilwara ("District Forum"); on account of receipt of cheque towards compensation, the claim petition  
was not

maintainable and it was prayed that as the claimant has suppressed the fact and has filed the petition seeking compensation, the  
claimant be

punished.

3. The application was replied on behalf of claimant-Harak Lal and it was contended that the Jeep was insured with United India Insurance

Company Limited; claim was raised with the Insurance Company, which was rejected by it, therefore, complaint was made, which was accepted

by the District Forum on 18.11.1997 and direction was given to pay a sum of Rs. 1,14,000/- alongwith interest @ 18% per annum, against which,

an appeal was pending before the State Commission; the claim of the petitioner was for a sum of Rs. 2,57,840/-, however, only a sum of Rs.

1,14,000/- has been awarded and the order of the District Forum was not final; the application before the Tribunal was for the negligence of the

vehicle involved and the dispute before the District Forum was pertaining to contract between the applicant and his Insurance Company and

applicant was not seeking to get compensation more than loss suffered by him.

4. The Tribunal after hearing the parties by its impugned order Dt. 20.11.2000, inter alia, observed and directed as under:--

There are two questions to be answered in this matter. First, whether this claim petition is maintainable in the above mentioned facts and

circumstances. Secondly, what are the consequences of supplying false information, declaration and making double claim in the matter?

Adjudication for claim for damages to the property i.e. jeep (on account of the said accident) against the Insurance Company etc. is the crux of the

matter. The applicant could choose only one Forum. In such matter he cannot file claim petitions before more than one Forum. It is altogether

different and irrelevant thing how much of the claim is accepted or denied after the full adjudication. Section 167 of Motor Vehicles Act (for short

"MV Act") provides option regarding claims for compensation in motor accident cases in certain cases. In other words if the claimant

injured/deceased is/was a unknown who met with a motor vehicle accident, he can file his claim before the MACT (tribunal) or before the

Workman Compensation Authority but not before the both. Similarly the very idea and object behind column No. 27(ii) and 28 is to get complete

information so as to cheque & thwart the double claim.

Thus, the reply of the applicant side is baseless and is therefore, unacceptable.

Consequently, this claim petition is not maintainable and is, therefore, dismissed.

The applicant in view of the aforesaid facts and circumstances appears to have prima facie committed offences punishable u/ss 177 , 199 , 200 ,

193 & 209 & 420 /54 I.P.C. But before proceeding further, it is expedient to make an enquiry u/s. 340 I.P.C. read with 195(1) Cr.P.C. and

record statement of all the concerned. It is unfortunate that Mr. Dinesh Somani, Advocate, learned counsel for the applicant was in know of all the

facts as he was counsel for the applicant in both the matters from the very inception of the proceedings and still he allowed his party to make false

information/declaration and concealed the whole matter from the tribunal. It is apparently a matter of violation of professional ethics if some thing

not more serious than that. It is further unfortunate that he has tried to justify it.

Office is directed to register a criminal miscellaneous file for enquiry u/s. 340 Cr.P.C. and enclose the record of both the matters along with it.

Presently, the applicant and his counsel Mr. Dinesh Somani be summoned for evidence in the matter. The matter be posted to 5.12.2k for enquiry.

Attested photo copy of this order sheet shall be enclosed with the file of the enquiry.

5. It is submitted by learned counsel for the petitioner that the observations made and the directions issued by the Tribunal are ex facie incorrect

and against law and, therefore, the same deserves to be set aside; the order passed is fundamentally based on inaccurate facts and, therefore, the

same cannot be sustained; it is submitted that the claim before the Tribunal was filed on 19.04.1997 against the offending vehicle, which was

involved in the accident and against the respondent No. 3 Insurance Company i.e. Oriental Insurance Company; the claim before the District

Forum was filed on 28.04.1997 against the applicant's own insurer i.e. United Insurance Company Limited for its denial to pay compensation qua

the loss suffered by the applicant; however, the entire order of the Tribunal proceeds on the fact that the application before the Tribunal was filed

suppressing the fact of proceedings pending before the District Forum and, therefore, the applicant and the counsel representing the applicant were

guilty of concealment.

6. It was submitted that no notice was issued to the petitioner before the order impugned was passed by the Tribunal, which has resulted in making

of wholly uncalled for observations and directions have been issued to initiate proceedings under Sec. 340 Cr.P.C., which are not justified in the

circumstances of the case; a further submission has been made that time and again Hon"ble Supreme Court has directed that observations and

structures, personal in nature, should not be made by the Courts/Tribunals, which aspect has been thoroughly ignored by the Tribunal while passing

the order impugned; it was prayed that the order impugned deserves to be quashed and set aside.

7. Reliance was placed on State of M.P. and Others Vs. Nandlal Jaiswal and Others, and Amar Pal Singh Vs. State of U.P. and Another, .

8. Learned counsel for respondent No. 4 submitted that the applicant indulged in seeking relief before two Forums and was represented by same

counsel; the claim filed by the petitioner was decided by the District Forum, which was not brought to the notice of the Tribunal; the act of filing

two claims appears to be intentional and cannot be said to be mistaken; the Courts have inherent jurisdiction to take action in case the act of the

parties/counsel is found to be in relation to any proceeding before it; it was prayed that the writ petition may be dismissed.

9. I have considered the rival submissions made by learned counsel for the parties and have perused the material placed on record.

10. A bare look at the order impugned reveals that the entire order is prefaced and is based on the fact that the application before the District

Forum was made prior in time and the claim before the Tribunal was filed subsequent thereto, suppressing the pendency of the application before

the District Forum, which have been noticed by the Tribunal in the order impugned, which reads as under:--

Succinctly the fact, in short, are that applicant Harak Lal is owner of jeep No. RJ 06/1622 which was insured with the Oriental Insurance

Company Ltd. Divisional Branch Bhilwara (Respondent No. 3). It allegedly met with an accident on 15.7.96 with truck trailer No. HR-46/4318.

The jeep was reportedly damaged. The applicant first preferred to file a claim petition before the District Consumer Forum, Bhilwara against the

respondent No. 3 Oriental Insurance Company Ltd. to the tune of Rs. two lacs as damages caused to the jeep. This claim was partially allowed on

18.11.1997 and the applicant was compensated by the Insurance Company to the tune of Rs. 1,61,724/- in compliance of the judgment of the

District Consumer Forum.

It appears that after some time i.e. after filing petition before the District Consumer Forum, the applicant also filed a claim petition through the same

counsel i.e. Sh. Dinesh Somani, Advocate before this tribunal against the truck-owner, driver and the Insurance Company relating to truck No.

HR-46/4318 which incidentally happens to be the same Insurance Company.

(emphasis supplied)

11. Further, the Tribunal has also proceeded to assume that the claim before the District Forum and the Tribunal were made against the same

Insurance Company; the order impugned proceeds to indicate the requirements in the application before the Tribunal of disclosing pendency of any

other proceedings and the Tribunal has taken a very serious view of failure to disclose the pendency of the application before the District Forum.

12. It appears that the Tribunal, instead of looking at the documents and the information available before it, only on account of its anxiety to uphold

the professional ethics on part of the counsel and overawed by the fact of filing of claim before two Forums, has ignored the factual aspect of the

matter; a bare look at the claim petition (Annexure-1) filed before the Tribunal indicates that the claim petition has been presented before the

Tribunal on 19.04.1997 and a look at Annexure-4, a certified copy of the application filed before the District Forum, discloses that the same was

filed on 26.04.1997.

13. The above aspect, clearly brings out that the entire foundation of passing of the order impugned by the Tribunal was incorrect as the

application before the Tribunal was made earlier and the application before the District Forum was made later in point of time and, therefore, there

was no question of any disclosure in the application filed by the petitioner as expected by the Tribunal and, regarding which, a detailed requirement

has been indicated by the Tribunal.

14. Besides the above, the application before the Tribunal involved Oriental Insurance Company and the application before the District Forum

involved United India Insurance Company and even on that count the Tribunal had committed factual error in coming to the conclusion that both

the claim petitions were filed against the same Insurance Company.

15. The fact as to whether the applications before the two Forums simultaneously were maintainable or not, essentially cannot have any implication

in so far as the order impugned is concerned, inasmuch as, even despite specific provisions contained under Sec. 167 of the Act, regarding non-

maintainability of claims under Workman Compensation Act and the Motor Vehicles Act, the issue as to filing of claims at both the places by the

claimants have never been viewed in the context of initiating proceedings under Sec. 340 Cr.P.C. and by taking aid of Section 167 of the Act

based on factual inaccuracy to proceed against the applicant and the counsel does not appear to be a prudent action in the facts and circumstances

of the case on part of Tribunal.

16. So far as the judgments cited by learned counsel for the petitioner are concerned, as the observations and directions issued by the Tribunal are

based on incorrect facts, the same even otherwise, cannot be sustained. In view of the above discussion, the order impugned cannot be sustained

and the writ petition is, therefore, allowed. The order Dt. 20.11.2000 passed by the Tribunal, in so far as the same relates to making observations

and initiating proceedings under Sec. 340 Cr.P.C. is concerned, is quashed and set aside. The order pertaining to dismissal of claim petition is not

interfered with. No order as to costs.