

State of Madhya Pradesh and Another Vs Chatru Lal

Court: Madhya Pradesh High Court

Date of Decision: Oct. 18, 1993

Acts Referred: Civil Procedure Code, 1908 (CPC) – Order 14 Rule 5, Order 6 Rule 17

Citation: (1995) ACJ 533

Hon'ble Judges: R.D. Shukla, J

Bench: Single Bench

Advocate: Upadhyaya, Dy. A.G, for the Appellant;

Final Decision: Allowed

Judgement

R.D. Shukla, J.

The revision is directed against the order dated 24.6.1992 of Motor Accidents Claims Tribunal, Neemuch, passed in

M.A.C. No. 17 of 1988 whereby the applicant's (respondent's) application under Order 6, Rule 17, CPC and under Order 14, Rule 5, Civil

Procedure Code, for amendment in the pleading and for further amendment in the issues has been rejected.

2. The brief history of the case is that the N.A. Nos. 1 and 2 (claimants) filed a claim petition before the learned Tribunal against respondent Nos.

1 and 2 (petitioners here) and respondent No. 3 (N.A. No. 3 here) with the assertions that Sugrabai, daughter of claimants, was working with

respondents. The roadroller was driven by respondent No. 3 (N.A. No. 3 here) and because of the rash and negligent driving of the roadroller

their daughter, Sugrabai, died after sustaining injuries from the roller. They claimed Rs. 51,000/-.

3. Respondents including applicants here denied the claim and further pleaded that the roadroller was in possession of one contractor, Basantilal,

on the basis of an agreement of lease.

4. It appeal's that issues on the same were not framed. Thereafter respondent Nos. 1 and 2 (petitioners here) filed an application under Order 6,

Rule 17, Civil Procedure Code, elucidating the fact that roadroller being under the control and possession of contractor on the basis of agreement

of lease. They further filed another application for amendment of issue as to whether and how contractor Basantilal is responsible for payment of

compensation.

5. The claimants objected to the facts of the application. After hearing-the parties the learned Tribunal has rejected both the applications. Hence

this application.

6. The contention of the learned Counsel for the applicants is that since Basantilal contractor was in possession of the road-roller he will be

deemed to be the owner under the definition as provided in Sub-section 30 of the Section 2 of the Motor Vehicles Act. It has further been

submitted that unless an issue is framed as to the extent of liability of contractor Basantilal no proper adjudication in the matter can be done.

7. As against it learned Counsel for the N.A. Nos. 1 and 2 has submitted that the applicants' evidence is almost at a close and, therefore, the

applications are much delayed and are likely to hamper the expeditious disposal of claim petition.

8. Section 2(30) of the Act reads as follows:

"Owner" means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in

relation to a motor vehicle which is the subject of a hire-purchase agreement, or an agreement of lease or an agreement of hypothecation, the

person in possession of the vehicle under that agreement.

9. On a plain reading of definition it is evident that a person in possession of the vehicle under an agreement of lease may also be treated to be an

owner of the vehicle. Once this plea of agreement of lease has been raised it is but necessary that it ought to have been entertained and the matter

should have been adjudicated taking into consideration the plea so raised.

10. Learned Counsel for the respondents has submitted that the State even otherwise is a principal employer and the principal owner of the vehicle

and, therefore, the State would be vicariously liable to make payment of compensation.

11. This can also be decided only after a plea is raised, issues are framed and the matter is thereafter adjudicated upon. In the opinion of this

Court, therefore, the application for amendment in the pleading as well as an application for framing additional issues deserves to be allowed and

the learned Tribunal has failed to exercise jurisdiction vested in it to that extent.

12. So far as the delay in making the application for amendment and for framing additional issues is concerned, the claimants should be

compensated by way of costs.

As a result the revision succeeds. Both the applications filed by the applicant (respondent) Nos. 1 and 2 are allowed subject to costs of Rs. 150/-.

The costs would precede the amendment.

The parties are directed to appear before the learned Tribunal on 17.11.1993, no further notice would be required and the amendments shall be

effected within ten days. Thereafter, learned Tribunal shall further grant opportunity to the claimants to make consequential amendment and

thereafter shall frame additional issues on the plea so raised.

In the facts and circumstances of the case, the parties shall bear their own costs of this revision.