

(1990) 04 MP CK 0015

Madhya Pradesh High Court (Gwalior Bench)

Case No: M.A. No. 45 of 1988

Smt. Sarmaniya Bai and Others

APPELLANT

Vs

Madhya Pradesh Rajya
Parivahan Nigam and Others

RESPONDENT

Date of Decision: April 5, 1990

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 21 Rule 1
- Motor Vehicles Act, 1939 - Section 110, 110A, 110A(2), 110B, 110C

Citation: (1991) 1 ACC 193 : (1990) ACJ 862 : AIR 1990 MP 306 : (1990) JLJ 386 : (1990) 35 MPLJ 387 : (1990) MPLJ 387

Hon'ble Judges: T.N. Singh, J; S.K. Dubey, J; R.C. Lahoti, J

Bench: Full Bench

Advocate: N.D. Singhal and N.C. Jain, for the Appellant; N.P. Mittal, for the Respondent

Judgement

T.N. Singh, J.

Three matters are linked up with the Division Bench, making the reference, taking the view that a common question of law arises in all the three matters and the question being of general importance, deserves decision of a Larger Bench. Claimants/appellants have prayed for enhancement of compensation awarded u/s 110B of the Motor Vehicles Act, 1939, for short, the Act, in this appeal. During pendency of the claim petition an order was passed by a learned single Judge of this Court in Civil Revision No. 134 of 1987 on 31-8-1989. By that order claimants' prayer for enforcement of the interim award, passed in the pending claim petition, u/s 92A of the Act, was rejected. Shortly and precisely, challenge to the correctness of the view expressed therein is the basis of the reference made to this Bench.

Learned District Judge, Shivpuri, acting as Motor Accidents Claims Tribunal, for short, the Tribunal, had passed the order dated 18-8-1986 (which was impugned in Civil Revision No. 134 of 1987) refusing to enforce interim award by applying the

provisions of the Code of Civil Procedure, for short, C.P.C. pertaining to execution of decrees and orders. His view that Section 110E of the Act has circumscribed jurisdiction of the Tribunal and that it can only issue a certificate thereunder to the Collector for recovery of the amount due under the award as an arrear of land revenue was accepted by the learned single Judge. Although he referred to this Court's Full Bench decision in [Mangilal Vs. Parasram and Others](#), the learned single Judge observed that "at the time the decision was rendered, the provision of Section 110E of the Act was not in force."

In the other two matters, M.P. No. 678/88 and 1103/88, which are linked up with this appeal, the impugned orders were passed on 27-1-1987 and 25-1-1987 by the same learned District Judge, Shivpuri. By those orders, he refused to execute the awards which were passed by the District Judge-cum-Motor Accident Claims Tribunal, Nasik, u/s 110B of the Act in proceedings instituted before him in regard to accident which had taken place on 28-12-1980 within the jurisdiction of the said Tribunal. Petitioners in M.P. No. 1103/89 claimed compensation for the death of one Shivendra Singh who died in the accident, while the petitioner in M.P. No. 678/88, claimed compensation for injuries caused to her in the same accident. For Shivendra Singh's death, compensation awarded is Rs. 35,500/- and petitioner Kashibai has been awarded Rs.9,460/- for injuries caused to her. However, in each case, the Insurer's burden is restricted to Rs. 5,000/-. For the remaining amount the claimants, therefore, levied execution separately against the owner of the same Tourist Bus in which the deceased and petitioner Kashibai were travelling. The owner Babulal Chintulal Gupta (respondent No. 2 in both petitions) being resident of Shivpuri, on claimants' prayer, the Claims Tribunal at Nasik proceeded under Order 21, Rule 6 read with Section 39, C.P.C. and transferred for execution the awards to the Court of learned District Judge, Shivpuri. As that Court had already expressed an unfavourable view in passing the order dated 18-8-1986 which was upheld, as earlier alluded, in Civil Revision No. 134/87, the inevitable happened.

For this Bench's opinion on the above facts, the following question has been framed :

"Whether the Tribunal passing an award under the provisions of the Motor Vehicles Act for compensation to claimants for death or injuries lacks jurisdiction to enforce its award adopting procedure provided under C.P.C., exercising its inherent jurisdiction in that regard?"

In the referring order, it has been observed that [Mangilal Vs. Parasram and Others](#), (FB) (supra) had considered the question tangentially and it has also been observed that authorities cited at the Bar related to the States of Andhra Pradesh, Gujarat, Maharashtra and Punjab where Rules have been framed by the State Governments under the Act providing expressly for applicability of the provisions of Order 21, C.P.C. to the enforcement of awards passed by Claims Tribunal, while in this State similar Rules have not been framed. Let it also be noted in this connection that in

Mangilal v. Parasram, the decision rendered was in the appeal u/s 110D of the Act, challenging the award.

In the appeal one of the questions raised before the Full Bench was, whether Claims Tribunal was required under the Act to base its award on the finding that the accident was a result of negligence on the part of owner or driver of the vehicle. In answering the question at para 31 of the Report (AIR), it was observed: "It is clear that the question whether proof of negligence is essential or not for an award of compensation does not depend on whether the award can be enforced by the Tribunal itself or by the Civil Court under Order 21, Civil Procedure Code, or otherwise." In the same para, however, it was also observed : "In our view, in the absence of an express provision in the Act for execution of the award against the insured (for the total amount of compensation payable to the claimant minus the amount payable by the insurer) and so long as such an express provision is not made, the following rule (as stated in AIR 1969 SC 430) must be applied". Before we proceed to examine further the ramification of that holding, we would like to make one thing clear that the learned single Judge, in distinguishing the decision, stated incorrectly that Section 111E was not in force when the decision was rendered. As a matter of fact, Section 110E was inserted in the Act in 1957 along with other provisions of the New Chapter VIII by the Amending Act No. 100 of 1956. A minor amendment was later made in Section 110E, in 1970, by substituting the words "any person" for the words, "an insurer", originally enacted.

In I.T.O. v. Mohd. Kunhi AIR 1969 SC 430 cited before the Full Bench, it was held that even in the absence of express provision in the Income Tax Act, the Appellate Tribunal constituted thereunder had the power to grant stay as incidental or ancillary to its appellate jurisdiction to make the exercise of powers vested in it fully effective. Their Lordships observed, "It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective". Law in that regard, stated in Southernland's Statutory Construction and Maxwell's Interpretation of Statutes, was approved. Their Lordships also approved expressly the holding ex parte, Martin (1879) 4 QBD 212, that "where an inferior Court is empowered to grant an injunction, the power of punishing disobedience to it by commitment is impliedly covered by the enactment, for the power would be useless if it could not be enforced."

The first question to be examined, therefore, is the scope of the grant under the Act of power to the Claims Tribunal and of inbuilt statutory constraints in that regard. Section 110 authorises the State Government to constitute one or more claims Tribunals for such area as may be specified in the Notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving death or bodily injuries to persons arising out of use of motor vehicles, Only such person, who is or has been a High Court Judge or a District Judge or is qualified for

appointment as a Judge of the High Court, can be appointed as a member of the Tribunal. By Section 110-B, it is provided that on application for compensation being made u/s 110-A, parties shall be heard in "inquiry" made with respect to the claim and an "award" may be passed determining the amount of compensation which appears to the Tribunal to be "just". Jurisdiction is also vested in the Tribunal to specify the person or persons to whom the compensation shall be paid and also to whom that shall be paid, "the insurer or owner or driver of the vehicle involved in the accident or by all or by anyone of them."

Other provisions, having a material bearing on the question agitated, (sic) we reproduce below; of Section 110-C, only relevant portion is extracted:

"110-C. Procedure and powers of Claims Tribunals.-- (1) In holding any inquiry u/s 110-B, the Claims Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it thinks fit.

(2) The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for other purposes as may be prescribed, and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

110-E. Recovery of money from insurer as arrear of land revenue.-- Where any money is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the money, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

110-F. Bar of jurisdiction of Civil Courts.-- Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court.

111-A. Power of State Government.-- A State Government may make rules for the purpose of carrying into effect the provisions of Sections 110 to 110-E, and in particular, such rules may provide for all or any of the following matters, namely -

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(c) the powers vested in a Civil Court which may be exercised by a Claims Tribunal;

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(e) any other matter which is to be, or may be, prescribed."

Clauses (a), (b) and (d) -- not relevant; not extracted.

State Government has framed rules in 1974 u/s 111-A relevant portions of the relevant rules are also extracted :

"297. Application of certain provisions of Code of Civil Procedure, 1908.-- Save as otherwise expressly provided in the Act or these rules, the following provisions of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) namely, those contained in Order V, Rules 9 to 13 and 15 to 20; Order IX; Order XIII, Rules 3 to 10; Order XVI, Rules 2 to 21, Order XVII, and Order XXIII, Rules 1 to 3, shall apply to proceedings before a Claims Tribunal in so far as they may be applicable thereto :

.....

298. Appeals.-

.....

(3) Save as provided in Sub-rules (1) and (2), the provisions of Order XXI and Order XLI to the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), shall, mutatis mutandis, apply to appeals preferred to the High Court u/s 110-D of the Act."

It is necessary to bear in mind judicially noted implications of the change in law brought about by the enactment in 1957 of the New Chapter VIII of the Act. In *New India Insurance Co. v. Smt. Shanti Misra*, AIR 1976 SC 237, it was held that there was no change in the "substantive law" and the change was of "forum" or the "procedural law", It was observed that the underlying object of the change was to enable claimants to have a cheap and quick remedy as such claims would have otherwise been adjudicated in a Civil Court wherein ad valorem court-fees had to be paid and trial court (could) only be a protracted one. In [Minu B. Mehta and Another Vs. Balkrishna Ramchandra Nayan and Another](#), it was categorically pointed out that the new Indian provision was modelled on the English Road Traffic Acts of 1930 and 1934. The liability enforced under the provisions of new Chapter VIII of the Act at the forum of the Claims Tribunal was based on "Common Law and Law of Torts", The power exercisable by the State Government u/s 110 to constitute a Tribunal was optional, it was further held; and that in any area where Tribunal had not been constituted the Civil Court continued to exercise jurisdiction in regard to claims arising out of motor accidents applying the same Law of Torts.

We have to read accordingly the provisions afore-extracted in the light of the scope and object of the change in law expounded by the Apex Court in the decisions above referred. Section 110-C speaks of only "powers and procedure" of Claims Tribunal and has to be read subject to the other provisions of Chapter VIII of which Section 110 has created the new forum. Obviously, in regard to the scope, extent and nature of jurisdiction of that forum the import and object of other provisions cannot be ignored. The scope and application of Section 110-C is limited to exercise of

jurisdiction by the Tribunal at the stage of "inquiry" into claim for compensation made in the application contemplated u/s 110-A. For that purpose it is empowered to adopt "summary procedure as it thinks fit" notwithstanding the fact that it shall have "all the powers of a civil court" in regard to the matters specified. The expression, "and for other purpose as may be prescribed", has to be read in ejusdem generis sense; it does not, mean anything else. Such power and jurisdiction as are inherent in the Tribunal for dealing with the action instituted at its forum in regard to tortious liability of the owner and driver and the statutory or contractual liability of the insurer remain untrammelled and are not touched by Section 110-C. The expression does not indicate that powers which are inherent in the jurisdiction of the Tribunal for acting judicially (like a court) in trying a case of civil nature and enforcing the decision rendered are not exercisable unless they are duly and specifically prescribed. Reading Section 110-C in its entirety and analysing its different parts make it clear that it is not sole repository of all "powers" of the Tribunal to be exercised in respect to its jurisdiction for different matters. Legislature has deliberately and advisedly omitted the word "jurisdiction" and has used only two words "power" and "procedure" in Section 110-C because the scope and ambit of Tribunal's jurisdiction have to be determined necessarily with reference to the other provisions of Chapter VIII.

Section 110 read with Section 110-F specifically vests in categorical terms jurisdiction in Claims Tribunal exercisable within specified territorial limits in any State, to the exclusion of the Civil Court, only for "adjudication." upon any claim arising out of any motor accident; the power enjoyed by its counterpart, to enforce decisions in regard to any claim duly adjudicated, must be deemed to remain concurrently vested in it, exercisable *pari passu* as a "substituted" forum, as a necessary and indispensable ingredient of its substituted jurisdiction. That is not taken away either expressly or impliedly by Sections 110A, 110B, 110C or even by 110E. Power u/s 110-E is exercisable at the option of all or any person "entitled to the money" due under the award. If several persons are specified in the award as so entitled, all of them may not exercise same option for enforcement of the award u/s 110-E. As the award may apportion respective liability of the insurer, owner and the driver and may also make them jointly and severally liable, the choice and freedom of several judgment-creditors to execute the award against the several judgment-debtors can only be statutorily restricted or channelised: but Section 110-E has not done that. The power contemplated u/s 110-E is expressly vested in the Tribunal for the reason that such power does not ordinarily vest in a Civil Court, trying an action taken for contract or tort, as an ordinary incident of its jurisdiction. That power is specifically vested in the Tribunal as an additional incident of its jurisdiction and that is not contemplated as substitute for other powers including the inherent power otherwise possessed by the Tribunal as an ordinary incident of its jurisdiction acting as a "court-substitute". In *R. Jagdishwara Rao*, AIR 1979 Andh Pra 68, the word "may" used in Section 110-E has been construed and is said to be used in the

permissive sense to hold that an applicant has a choice either to seek a certificate u/s 110-E or to file an application under Rules framed by the State Government for execution by Tribunal of its award. We fully agree with that statement of law.

It appears to us, however, that use of the word "may" in Section 110-E has another purpose and that must be vocalised. By implication, the Claims Tribunal is, according to us, empowered to exercise the jurisdiction already vested in it in any other manner in regard to enforcement of its own award and, therefore, "may" signifies also discretionary exercise by the Tribunal of its jurisdiction u/s 110-E. The territorial extent of the jurisdiction contemplated thereunder is obviously limited because Tribunal "may" issue certificate on application u/s 110-E only to such Collector as "possesses territorial competence to entertain and execute an award sent to it for execution, under the law applicable to him. All applications made u/s 110-E are, therefore, not supposed to be allowed on being filed without regard to that question or other relevant questions. It cannot, therefore, be said that all awards passed by the Tribunal; can be enforced in virtue of such application and in no other manner. If the contrary view is taken it would mean that an award which has to be enforced in respect of a person or property within the jurisdiction of any other Collector would remain for all times a paper award and that would not be enforceable by any other means at any other forum. That would defeat the fundamental purpose and object of Section 110 and indeed of entire Chapter VIII. Other provisions of the Chapter are obviously not controlled by Section 110-E as is manifested by the absence therein of a non obstante clause.

12-A It is not difficult to conceive of a case when a vehicle owned by a person residing in State A causes accident in State B and application for compensation in regard to such accident is made by a person residing in State C. Evidently, the claim will be tried in State B and award will be passed by Tribunal in State B. By what logic or supposed legislative intent it can be justified that such an award should be enforceable only in State B and not in any other State despite the fact that there may be scope for that award to be satisfied out of the properties of owner or driver in any other State? Legislature must be deemed to have legislated objectively and reasonably keeping in view such contingencies. It could never be the intention of the Legislature to change the law to the detriment of victims of motor accidents to produce the absurd result that although enforcement of a "decree" passed by a Civil Court in a civil suit instituted in respect of a similar cause of action was enforceable anywhere in India and effective relief was provided to the litigant under pre-existing law, an award passed by Claims Tribunal should turn out to be, in most cases, a mere scrap of paper making illusory the relief contemplated under Chapter VIII of the new Law. Reference may be made in this connection to [Aundal Ammal Vs. Sadasivan Pillai](#), which has stressed Court's duty to interpret statutory provisions to subserve the object and purpose of the enactment matching the underlying public policy or public interest.

The view expressed above is also supported by the language of Section 110-F; Civil Court's jurisdiction is barred thereunder to the specified extent, the territorially and territorially. The bar operates in respect of a "question relating to any claim for compensation which may be adjudicated upon by Claims Tribunal" and also in respect of the "area" over which the Tribunal exercises jurisdiction. Evidently, the question of enforcement of an award passed by the Tribunal would not be a question of adjudication of a claim; it would also not be a question of issuing any "injunction in respect of any claim for compensation" as by the award passed the claim would be duly settled. Section 110-A (2) contemplates an application for compensation arising out of a motor accident to be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred. Tribunal's territorial jurisdiction is thereby defined and limited on the one hand; on the other hand, Civil Court is left untouched beyond the specified area in all matters. The force and effect of Sections 110, 110-A(2), 110-E and 110-F, read together, is that the Tribunal is not debarred from exercising its inherent jurisdiction to enforce its award in an area outside its territorial limits through any civil court and in that regard it shall also be within its power to follow an a priori consideration, the procedure applicable to civil courts in the absence of specific provision in that regard under the Act.

Let the provisions of Section 111-A be also examined to test the hypothesis. It is the that Clause (c) contemplates rules being framed for exercise of "powers" by Claims Tribunal which are vested in a Civil Court. That would not mean that powers of a Civil Court which the Tribunal possessed as incidental and ancillary to its jurisdiction as a "court-substitute", are still to be vested in it by Rules framed u/s 111-A. The scope of State Government's duty thereunder is illustrated by Clause (e) contemplating rules to be framed compulsorily ("is to be") in regard to some matters and optionally ("may be") for other matters, for carrying out the purpose of the Act. It is axiomatic that when any inherent power is exercised, that is done to fulfil the object and purpose of the Act; and that can be exercised in any manner and there can be no compulsory requirement for rules to be framed in that regard. As stated by Crawford in Statutory Construction, at p. 25, the vice of unlawful delegation of powers is attached to the "nature" of the power and not to the "manner" of its exercise which can be validly prescribed by Rules. Evidently, Rules cannot alter the scope of jurisdiction vested in the authority/forum exercising any power under the Act to change the "nature" of the power. The difference between "power" and "jurisdiction" has been noted in AIR 1949 188 (Nagpur) with reference to Section 107 (2) CPC. It was held that when the jurisdiction is fixed, it would not depend on the manner of exercise of power.

Apex Court's decision in [State of Haryana Vs. Smt. Darshana Devi and Others](#), has a message of compelling force and relevance to the controversy confronting us. That was a case of the claimant facing the risk of being non-suited. Their Lordships invoked the aid of Article 14 and 39A of the Constitution and baled her out. State

Government had not framed any rules under the Act to apply the provisions of Order 33, CPC but their Lordships held that the Tribunal having "trappings of the Civil Court" would have jurisdiction to apply the procedure envisaged under Order 33, CPC and even in the absence of rules framed by the State Government, the application for compensation made u/s 110-A without court-fees could be entertained and dealt with applying those provisions. State has a duty, their Lordships observed, under Article 41 of the Constitution, to render public assistance in cases of disablement and underserved want. The victims of motor accidents, they observed, are mostly below the poverty line and State must take notice of the notorious fact that our highways are grave-yards of tragic sale. It was a "tragic area of tort law" they noted and stressed the need also of overhauling it humanistically. Later, in *Bhagwati Devi* 1983 ACJ 123 (SC), their Lordships further took the view that for the purpose of Section 25 CPC also, the Claims Tribunal was a "Civil Court" and passed order transferring the claim case pending trial in one State to another.

If the message of [State of Haryana Vs. Smt. Darshana Devi and Others](#), and *Bhagwati Devi* (1983 ACJ 123) (SC) (supra) must be reverently heeded and we are duty-bound to do so, we do not think that it is possible to take any other view than we have already expressed in regard to the controversy we are called upon to resolve. The provisions of Sections 110, 110-A, 110-C, 110-E, 110-F and 111-A must be construed in a manner that they do not produce a constitutionally prohibited result. If all Claims Tribunals in the country are not endowed with inherent power to enforce their own awards in all possible and legally permissible ways, injustice and discrimination is bound to occur as a result of some victims being able to reap the fruit of awards and others being denied the same benefit, depending upon the fortuitous circumstance of either rules being framed u/s 111 -A of the Act for enforcement of such awards in modes and methods other than contemplated u/s 110-E, or of Tribunals not being constituted in some States and powers remaining vested in Civil Courts to pass decrees and to enforce the same in respect of claims made for compensation for death or injuries resulting from a motor accident. It must be treated as an immutable imperative of just legal system contemplated under Article 39A that no claimant-citizen is denied equal opportunity in the matter of the right to compensation for death or injury resulting from a motor accident being enforced effectively by enabling him to secure fruits of adjudication of his claim. The Act applies to the entire length and breadth of the country and our Constitution knows no artificial intra or inter-State barriers prohibiting flow, of motor traffic. It should be judiciary's duty flowing from the joint mandate of Articles 39A and 41 to ensure that effective remedial provisions subsist for trans-national disasters, big or small for disasters writ large in large number of cases arising from over growing incidence of motor accidents resulting in miseries to and destitution of widows and infants, generally of the poverty-stricken populace. Sections 110-E, 110-F and 111-A of the Act must fulfil the wholesome scheme and the sacred object of Chapter VIII. There can be no scope for any discordant note ill-suited the

signature tune of social justice of our Constitution. It is an occasion to recall Benjamin Cordozo's advice to Courts to "keep the doctrines up to date with the mores by continual restatement and by giving them a continually new context" (See *The Nature of Judicial Process*, page 135).

It has to be still examined if in CPC itself there is any bar to Tribunal's applying relevant provisions thereof as afore-extracted Rule 297 framed by the State Government does not expressly contemplate that in regard to enforcement of awards passed under the Act those provisions may be applied by the Tribunal. This exercise is postulated by the universally accepted principle that no Court or Tribunal can use inherent powers to nullify or stultify any express statutory provisions See [Cotton Corporation of India Limited Vs. United Industrial Bank Limited and Others](#), Section 36 et. seq. and Order 21, CPC contain provision for "execution" of orders and decrees passed by a Court. Neither the word "Court", nor the words "Civil Court" are defined in C.P.C. Even in the Act, those words are not defined. In Stroud's Judicial Dictionary, it is stated : "Court is a place where justice is judicially administered" (See Vol. I-p. 666). In *Corpus Juris Secundum*, it is stated : "Broadly speaking a Court is a judicial tribunal engaged in administration of justice". (See Vol 21, p. 15). The Preamble and long title of CPC speak of "Courts of Civil Judicature" and vocalises the premise that CPC is meant to "consolidate and amend the laws relating to the procedure of courts of Civil Judicature". Section 110-C(2) of the Act requires Claims Tribunal to receive evidence adduced by parties in making enquiry into any claim made in the application filed u/s 110-A for compensation and the Tribunal is required to follow procedure prescribed under CPC in that regard. It is obviously an essential attribute of the Claims Tribunal that it acts judicially and exercises civil jurisdiction in deciding claims relating to civil wrongs and civil liability, of tort-feasors and liability also of insurers, arising out of statutory and contractual obligations. Jurisdiction of the Tribunal in applying any provision of the CPC for exercising any power in accordance with procedure prescribed in CPC is not impaired in any manner under the Act. Indeed, if the test of "trappings", laid down by the Apex Court in [State of Haryana Vs. Smt. Darshana Devi and Others](#), and *Bhagwati Devi* (1983 ACJ 123) is applied, same conclusion is reached-that application of the provisions of Section 36 et. seq. and Order 21, CPC to Claims Tribunal is not barred.

Section 2(14) defines the term "order" to mean "formal expression of any decision of a Civil Court" and as per Section 36, all "orders" and "decrees for, among others, payment of money, are executable in the same manner in accordance with the same provisions of the Code. There is nothing to be read in the provisions of Section 36 et. seq. to indicate any inbuilt prohibition as would distinguish them from Section 25, or Order 33 CPC which, as held by the Apex Court, are applicable to any proceeding before the Claims Tribunal. It is true, Claims Tribunal being the creature of the Act, it was open to the Legislature to provide exhaustively the procedure to be followed by the Tribunal in all matters and for all purposes. That course, however, the

Legislature has not followed. Therefore, even Section 4, CPC would not stand in the way of the Tribunal applying the provisions of Section 36 et. seq. and Order 21, CPC. We have no doubt that the express saving made u/s 4, CPC in regard to special jurisdiction or power or special form of procedure prescribed is the crucial provision embodying the test of total non- application of the procedure prescribed in CPC to any proceeding in any special forum like the Claims Tribunal constituted under the Act.

The Delhi High Court, in *Eagle Star Insurance Co.* 1971 A CJ 367 , has held that Claims Tribunal is a "Court" for the purpose of Section 86(4), CPC. This Court, in [Krishan Gopal Devi Prasad and Others Vs. Dattatraya Madho Lad](#), has also held that Tribunal is a "Court"; and that revision against its order is maintainable u/s 115, CPC. That decision was approved by this Court's Full Bench in [Mangilal Ganpat Vs. The Union of India \(UOI\)](#), wherein it was also held that Rules being not framed in regard to service of notice u/s 80, CPC, that requirement need not be satisfied. Other courts also, in different context, have held that the Tribunal constituted u/s 110 of the Act is a "Court" or "Civil Court". (See *Chawli Devi* 1973 A CJ 519 (Punj & Har); [Shardaben Vs. M.I. Pandya and Another](#), . It is true that a discordant note is struck in the same decisions holding a Claims Tribunal to be a "persona designata" and not Court, but it is not necessary to expatiate on that. (See [Fazilka Dabwali Transport Co. \(Private\) Ltd. Vs. Madan Lal](#), A Division Bench of this Court also, in *MPSRTC v. Munnabai* 1967 ACJ 214 , has taken a similar view, but that holding is explained and scope thereof is restricted by the Full Bench in [Mangilal Ganpat Vs. The Union of India \(UOI\)](#), (supra). We consider it appropriate to state, as noted by two learned authors that "tribunals are a more modern form of court", devised to deliver jet-age justice acting at once as time-savers and money-savers. (See Brian Abel-Smith and Robert Stevens), In *Search of Justice*, quoted in Michael Zander's *Cases and Materials on the English Legal System*, page 41). In the Act, the true character of the Claims Tribunal is exposed by the requirement of the same being constituted by judicially trained persons of high calibre such as a District Judge or a High Court Judge, as per Section 110(3). Factually, the position is more potent and patent in this State as District Judges and Additional District Judges are appointed u/s 110 to perform duties of Claims Tribunal and as per Section 3, M.P. Civil Courts Act "Civil Courts" are constituted with them (among others), in this state.

Respondent's counsel Shri Mittal submitted that State Government having made its choice not to vest jurisdiction in the Tribunal to empower it to enforce its own award, it is not open to this Court to legislate judicially to obtain the opposite result. For that, counsel relied on Rules aforequoted, 297 and 298, to submit that State Government has advisedly applied the provisions of Order 21, CPC. only to decisions rendered in appeal by High Court u/s 110-D of the Act. To that contention, there are two answers. Firstly, we have already held that Tribunal's jurisdiction as a "court-substitute" of enforcing its own order ("award") is not affected in any manner by any provision of CPC or of the Act and that the inherent jurisdiction in that

respect cannot be altered in any manner by Rules framed u/s 111-A. We have also held that for exercise of any power by the Tribunal in its inherent jurisdiction, it has not to derive authority from any Rule and that non-framing of any Rule in the regard would only be tantamount to non-performance by the State Government of its optional duty in that regard. That would have no effect on Tribunal's inherent jurisdiction or an exercise of its inherent power in regard to the jurisdiction already possessed. Secondly, we must read Rule 298(3) sensibly and sustain its validity. It is not necessary to question the reasonableness of the Rule as that Rule does not defeat the purpose and object of Chapter VIII of the Act. It is necessary however to explain or rationalise its enactment.

20-A Appellate jurisdiction contemplated u/s 110-D being a creature of the Act (Chapter VIII), there can be no question of inherent jurisdiction or inherent power traceable to any pre-existing dispensation being possessed by the new appellate forum for enforcing the new right of appeal. Accordingly, if any Rule is framed providing manner of exercise of the new power contemplated thereunder, that Rule can legitimately provide application of not only the Order 41, CPC (applicable to appeals), but also the provisions of Order 21, CPC relating to enforcement of orders passed in appeal. Shri Mittal drew our attention to certain decisions which we need not discuss, though we may still observe that the view we have taken receives support from those. (See Minakshi Naidu ILR (1888) Mad 26 (PC); [Kishen Lal L.R. of Mohanlal Vs. Sohanlal and Others](#), Kinhabha Moolya AIR 1977 Ker 32 ; [Ishar Das and Another Vs. State of Haryana and Others](#), [Prem Narayan Amritlal Varma Vs. Divisional Traffic Manager Bhusawal](#), [R. Veerayya and M. Siddalingaiah and Others Vs. State of Andhra Pradesh and Others](#), Shri Mittal submitted a long list of other decisions also, but it is not necessary at all to reproduce that list as those decisions are based on Rules enacted by different State Governments u/s 111-A of the Act expressly applying the provisions of CPC to execution of awards passed by the Tribunal,

Appellants" counsel Shri Singhal submitted that position has not changed under the New Motor Vehicles Act, 1988. He contended that provisions of Sections 110, 110-A, 110-B, 110-C, 130-E, 110-F and 111-A of the old Act have been almost verbally re-enacted in the new Act; only new provision made in the new Act in Section 168(3). It is indeed contemplated thereunder that "the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount in such manner as the Claims Tribunal may direct". Nothing is, however, said in regard to Tribunal's power to proceed against the defaulter. The reason for that omission may be rule-making authority"s recognition of the legal position that in exercise of its inherent power relating to its inherent jurisdiction, it shall be possible for the Tribunal to proceed against the defaulter by applying appropriate procedure.

We have already referred to [Aundal Ammal Vs. Sadasivan Pillai](#), (supra) and to the duty of superior courts interpreting law, stated therein. We do not think that it is only judiciary's duty to ensure that law enacted is interpreted to match the underlying public policy or public interest. That mandate applies equally to the Executive as well. In that connection, we consider it advisable to refer to the default of the State Government that we have noticed in the inartistically and inadequately framed Rules 297 and 298. If it was considered necessary to apply expressly provisions of Order 21, CPC to execution of orders passed in appeal u/s 110-D, it is not understood why, ambiguity was allowed to prevail and the same express provision was not made contemporaneously in Rule 297 concerning procedure to be adopted by Tribunal for enforcing its own awards. It is unfortunate that the inadvertent omission has been the cause of endless suffering to endless people during the last 16 years (since framing of the Rules in 1974) because absence of authoritative judicial guidelines compounded the confusion at Tribunal's level in this state. Let it be clearly stated that even now appropriate Rules adequately fortified can be competently framed to ensure more expeditious and effective enforcement of awards passed by Claims Tribunal in other manners also, not contemplated u/s 110-E (old) or 174 (new). Legislature having advisedly made a wholesome provision in new Section 168 (3), to make that provision fruitful and effective is also the duty of the rule-making authority. There is dire necessity indeed of ensuring that interim awards passed under new Section 140 (old Section 92A) are enforced post-haste as that is a Constitutional imperative arising from Article 21 of the Constitution. All these matters must receive earnest and immediate consideration of the State Government.

Our conclusion, therefore, is that the law expounded by the learned single Judge of this Court in his order passed on 31-3-1989 in disposing of Civil Revision No. 134 of 1987, preferred by the appellants is incorrect. Law was not correctly stated in taking the view that the Claims Tribunal cannot execute its own award in any other manner except in accordance with the provisions of Section 110-E of the Act. On the contrary, we are of the view that the Claims Tribunal possesses inherent jurisdiction to enforce its own award in accordance also with the provisions of CPC as applicable to execution of orders and decrees passed by a Civil Court. Accordingly, we answer the question in the affirmative.

Let the records of all three matters be placed now before the Referring Bench to be dealt with separately in accordance with law. A copy of this order shall be placed on the records of the two connected matters, M.P. Nos. 678 of 1988 and 1103 of 1989. A copy of this Order shall also be sent to the Secretary to Government of Madhya Pradesh, Law Department, Bhopal, for necessary action.