

RAJASTHAN HIGH COURT

Saifullan Khan

Vs.

Doongar Ram

Civil Writ Petn. No.5334 of 2000

(S.K. Keshote, J.)

17.07.2001

ORDER

S.K. Keshote, J.

1. By this petition under Article 226 of the Constitution, the petitioners are challenging the validity, legality and correctness of the order dated 21-6-2000 passed by the Motor Accident Claims Tribunal, Jaipur in claim case No.108/95.

2. Respondent Nos.1 and 4 are neither necessary nor proper parties to this petition and their names are deleted. So far as other respondents are concerned, Mr. Virendra Lodha put appearance. The Registry is directed to make necessary endorsement to this extent in the cause title. The matter is complete. Respondent Nos.2 and 3 have already filed their reply to the petition. On the request of the learned counsel for the parties, the matter is taken up for final hearing.

3. Briefly stated the facts of the case are that petitioners' uncle late Shri Mehmood Hussain Khan died due to motor cycle accident driven by the respondent. The petitioner raised a claim for Rs. ten lacs before the Motor Accident Claims Tribunal. During the course of the statements of the claimants the Presiding Officer of the Tribunal passed the impugned order. By this order he has stopped the trial of the claim petition on the ground that until the petitioners filed a succession certificate it cannot be proceeded. Hence this petition.

4. Learned counsel for the petitioners contended that there is no provision under the Motor Vehicles Act, 1988 whereunder a claimant has to produce along with it a succession certificate. In his submission to present and to prosecute a claim petition

the claimants need not produce a succession certificate. It has next been contended that the learned Tribunal acted highly arbitrary to stop the proceedings of the claim petition only on the ground that until a succession certificate is produced by the petitioners it cannot be proceeded. This way the Tribunal has stopped the proceedings of the claim for compensation for the death of the uncle of petitioners. Lastly it is contended that so far as continuation of proceedings is concerned under the Motor Vehicles Act for the death of uncle of petitioners arising out of motor vehicle accident, no such insistence of production of succession certificate could have been there. It is not the case where the Court has to disburse the amount of the compensation to the petitioners. Carrying this contention further, learned counsel for the petitioners submits that no other person has come up before the Motor Accident Claims Tribunal to claim the amount of compensation if any ultimately awarded in the claim case.

5. On the other hand, Mr. Virendra Lodha, learned counsel for respondents submitted that the matter pertains to the right to receive the compensation and when the petitioners are nephews of deceased for whose death the claim has been lodged the succession certificate is to be produced. Learned counsel for the respondents submitted that even where no other person has lodged any claim of the compensation the Tribunal is within its jurisdiction to direct the petitioners to file the succession certificate.

6. I have given my thoughtful consideration to the submissions raised by the learned counsel for the parties.

7. Mr. Virendra Lodha, learned counsel for the respondents is unable to show any provision from the Motor Vehicles Act, 1988 or the rules framed thereunder for the trial of the claim petition succession certificate is to be produced along with the claim petition. He is also unable to show any provision from the Act or the rules framed thereunder that unless a succession certificate is produced the claim petition is not maintainable or its trial cannot proceed. In view of this fact it can reasonably be presumed, assumed accepted that there is no such Impediment in the way of the claimants to present the petition and to proceed with the trial. In the absence of any provision requiring the presentation of succession certificate by the claimants, the Tribunal has certainly acted arbitrarily and also against a very conception behind this socio economic provision. The learned Tribunal has not given a reasoned order. The trial was in progress and abruptly it was stopped with the condition that until

succession certificate is produced, it cannot be proceeded. The Tribunal has to give the reasons or grounds in support of its order. It is a cryptic order and only on this ground this petition could have been allowed. Where the Tribunal stops the trial of the claim petition filed by the claimants for the compensation for the death of a person in a motor vehicle accident, it is a serious matter. It is a right of the claimants to file a claim petition and unless there is any legal impediment in its maintainability the trial thereof cannot be stopped. The Tribunal in such matter should have been very careful and cautious and before taking the right of the claimants to maintain and proceed with the trial of the claim petition, it has to record cogent and justified grounds in support of its order. It is not in dispute that no other person has lodged any claim of compensation for the death of deceased in a motor vehicle accident, it is also not in dispute that the petitioners are nephew of the deceased. It is not case of the respondents that the petitioners are not the legal heirs of the deceased. At the most it may be a case where the petitioners would not have been only the legal heirs of the deceased but for that the other side could have raised a objection or those other legal heirs would have come up before the Tribunal. Where this lis is there between the claimants, I appreciate the Tribunal may be justified to ask them to get their right decided and to produce the succession certificate. Whether in such case also it is desirable on the part of the Tribunal to stop the proceedings of the trial of the claim petition is another question needs to be considered. The other legal heirs are also and should have been in the Interest of early finalisation of the claim petition. In such matter also there may not be any Justification to stop the trial of the claim petition. The claim petition is to be decided expeditiously and at the most at the stage of order for disbursement and investment of the amount of compensation, this course could have been adopted. The matter needs to be examined and considered from another aspect also. It is desirable and time and again the Courts have also observed or directed for expeditious disposal of the motor vehicle accident claims cases. In view of this fact otherwise also there should not have been any order of Tribunal to stop the trial of the claim petition. The possibility of false, claim petitions are being filed or the Tribunal may have its own reservation regarding the right of the claimants to receive the compensation for the death of their alleged deceased relative died in the motor vehicle accident or any other reason but in such cases also it is difficult to appreciate this approach of the Tribunal. In such matter at the most the Tribunal to find out way that all the legal heirs of deceased may have a notice of the claim petition and if they have any right to receive the compensation may lodge their claim before it. For this the appropriate course may be to invite the objections against the claim application

filed by the claimants by giving a public notice at their cost or where the claimants are poor persons for this cost they would have been provided free legal services. This course is not adopted by the Tribunal. To go for and obtain a succession certificate though in talk it may be simple thing but if we go by the reality of things and in the present scenario it heavily costs. The applicants have to spend huge amount for proceedings to be initiated for succession certificate in the competent Court. Where the objections are there against the application filed by the petitioner for grant of succession certificate it becomes a suit and there is a fullfledged trial and naturally it will result in causing heavy financial burden to the applicants. It is high time where the Courts are to take care that unnecessarily the financial burden may not fall on the shoulder of the poor litigants. As far as possible all Presiding Officers of the Tribunals or the Courts to see that there may not be unnecessary litigation in the Court that too which is altogether avoidable. Even in a case where the Tribunal has reached to the stage of the disbursement and investment of the amount of compensation awarded and a succession certificate required instead of demanding it the Tribunal to adopt a course to invite objections from all the concerned persons and decide the matter and pass order for disbursement and investment of the amount of compensation awarded for the death of deceased in a motor vehicle accident.

8. As a result of aforesaid discussion, the order impugned of the Motor Accident Claims Tribunal cannot be sustained and it is quashed and set aside. The respondents are directed to pay the cost of the petition to the petitioners. The claim petition is of the year 1995, the Motor Accident Claims Tribunal, Jaipur is directed to decide the same within a period of six months from the date of receipt of certified copy of this order which is to be filed by the petitioners. The petition is allowed as indicated above.

Petition allowed.