

RAJASTHAN HIGH COURT

Pushpa Mishra

Vs.

MACT

S.B. Civil Writ Petition No. 1800 of 2004

(Shiv Kumar Sharma, J.)

29.03.2004

JUDGMENT

Shiv Kumar Sharma, J.

1. Claimant-petitioners seek to quash the order dated March 16, 2004 passed by learned Motor Accident Claims Tribunal cum Additional District Judge No. 8, *Jaipur City* whereby the execution application filed by petitioners under Order 21 Rule 11 Civil Procedure Code was forwarded to District Collector *Jaipur* under Section 174 of the Motor Vehicles Act for the recovery.

2. Mr. Akhil Simlote, learned counsel for the petitioners canvassed that the award of Motor Accident Claims Tribunal is treated to be a decree of Civil Court and the application under Order 21, Rule 11 Civil Procedure Code is maintainable, since the said provisions are made applicable by virtue of Rule 10, 28 of the Rajasthan Motor Vehicle Rules, 1990. In support of the contention learned counsel placed reliance on *Smt. Sarmaniya Bai and others v. Madhya Pradesh Rajya Parivahan Nigam*, ¹ and *Hirabhai Nanubhai Desai v. State of Gujarat and Ors.*, ²

3. Having brooded over the submissions, I find that the jurisdiction of the Claims Tribunal to enforce its award is not limited to only one method, namely issuance of certificate to the Collector for recovery of the amount due under the award as arrears of Land Revenue. The Tribunal possesses inherent jurisdiction to enforce its own award in accordance also with the provisions of Civil Procedure Code as applicable to execution of orders and decrees passed by a Civil Court Full Bench of Madhya Pradesh High Court in *Smt. Sarmaniya Bai v. Madhya Pradesh Rajya Parivahan Nigam* (supra), indicated thus : (Para 23)

"We are of the view that the Claims Tribunal possesses inherent jurisdiction to enforce its own award in accordance also with the provisions of Civil Procedure Code as applicable to execution or orders and decree passed by a Civil Court."

4. Learned court below did not properly appreciate Rule 10, 28 of the Rajasthan Motor Vehicle Rules, 1990 and drag the claimants to the office of the District Collector to follow a complicated and lengthy procedure. When the Claims Tribunal possesses inherent jurisdiction to enforce its own award, the claimants could not be asked to follow another procedure.

5. For these reasons I allow the writ petition and set aside the impugned order dated March 16, 2004, I remit the case to learned Motor Accident Claims Tribunal-cum-Additional District Judge No. 8, Jaipur City to execute the award under Order 21, Rule 11 Civil Procedure Code.

Petition allowed.

Cases Referred.

1. AIR 1990 MP 306 (FB)
2. AIR 1991 Guj 1