

PEPSU ROAD TRANSPORT CORPN. PATIALA,
THROUGH ITS GENERAL MANAGER

V.

KULWANT KAUR & ORS.

Civil Appeal No. 1157 of 2009

FEBRUARY 23, 2009

[DR. ARIJIT PASAYAT AND DR. MUKUNDKAM
SHARMA, JJ.]

Motor Vehicles Act, 1988 :

s.140 – No fault liability – Accident on 15-10-1982 – Claim petition on 30-11-1982 – Order passed by MACT – Appeal – High Court placed reliance upon s.140 of the 1998 Act as amended w.e.f. 14-11-1994 and after taking the view that the amended provision operated with retrospective effect, directed payment of Rs.50,000/- as “no fault liability” – Justification of – Held: Not justified – High Court was wrong in its view about the retrospective operation of s.140 – In any event, the 1988 Act can have no application in respect of a claim petition filed on 30-11-1982 and decided by MACT on 16-7-1984 – On facts, quantum of liability fixed at Rs.15,000/ – Motor Vehicles Act, 1939 – s.92A.

The present appeal concerns a claim petition filed on 30-11-1982 in respect of an accident that took place on 15-10-1982.

In appeal against the order passed by the Motor Accident Claims Tribunal (MACT), the High Court placed reliance upon s.140 of the Motor Vehicles Act, 1998 as amended w.e.f. 14-11-1994 and after taking the view that the amended provision operated with retrospective effect, directed payment of Rs. 50,000/- as “no fault liability”. The quantum of liability fixed by the High Court is challenged in the present appeal.

A **Allowing the appeal, the Court**

HELD:1. The amount payable under the old Motor Vehicle Act i.e. the Motor Vehicles Act, 1939 was Rs.15,000/- Subsequently, it was raised to Rs.50,000/-. By amendment Act no.47 of 1982 in the old Act operative with effect from 1.10.1982, s.92-A was introduced, making provision for "no faulty liability". The Motor Vehicles Act, 1988 was enacted on 14.10.1988, but became operative with effective from 1.7.1989. In the 1988 Act, the amount payable was Rs.25,000/- as no fault liability. The amount was raised to Rs.50,000/- by amendment operative with effect from 14.11.1994. [Para 6] [970-B]

2. At the relevant point of time the quantum of Rs.15,000/- appears to have been paid. The High Court's view about retrospective operation is contrary to what has been stated in R.L. Gupta's case, wherein it was held that the quantum of liability is provided by the Statute prospectively. In any event, the Motor Vehicles Act, 1988 can have no application in respect of a claim petition filed on 30.11.1982 and decided by MACT on 16.7.1984. The amount shall be Rs.15,000/- instead of Rs.50,000/- as directed by the Tribunal. [Paras 7, 8] [970-D; 970-E]

Case Law Reference

F (1990) 1 SCC 355 relied on Para 7

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G From the Judgement and Order dated 07.09.2005 and 18.08.2006 passed by the High Court of Punjab and Haryana at Chandigarh in L.P.A. No. 609 of 1986 and Review Application No. 1 of 2005 respectively.

K.K. Mohan, for the Appellant.

H The Judgement of the Court was delivered by

PEPSU ROAD TRANS. CORPN. PATIALA, THROUGH ITS 969
GEN. MAN. V. KULWANT KAUR & ORS.

DR. ARIJIT PASAYAT, J.

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1. Leave granted.

2. Challenge in this appeal is to the judgment of a learned Single Judge of the Punjab and Haryana High Court allowing the appeal filed by the respondent No.1 Kulwant Kaur. An application for review of the judgment was also dismissed. By the impugned judgment a Latest Patent appeal filed against the judgment of a learned Single Judge affirming the judgment of Motor Accidents Claims Tribunal (in short the 'MACT') was affirmed. The MACT has dismissed the claim petition on the ground that there was no evidence to show any loss of dependency. The claimant's lawyer in the appeal before the High Court took the stand that the claim was restricted to Rs.50,000/- as no fault liability under Section 140 of the Motor Vehicles Act, 1988 (in short the 'Act').

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3. The appeal filed by the claimant was allowed. Review application filed on the ground that Rs.50,000/- was not payable, was rejected.

4. Learned counsel for the appellant-Corporation submitted that the view of the High Court is clearly unsustainable. The High Court could not have directed the payment of Rs.50,000/- as "no fault liability". The High Court appears to have taken the view that the provision of Section 140 of the Act operate with retrospective effect.

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5. There is no appearance on behalf of the respondent in spite of service of notice.

6. Background facts in a nutshell are as follows :

An incident took place on 15.10.1982. The Act came into operation with effect from 14.10.1988 and the relevant provision was amended on 14.11.1994. The question is the date from which the Section 92(A) of the Motor Vehicles Act, 1939 (hereinafter referred to as "Old Act") operates and whether it operates with retrospective effect.

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A The High Court was of the view that that has retrospective operation.

B The amount payable under old Act was Rs.15,000/-. Subsequently, it was raised to Rs.50,000/-. By amendment Act no.47 of 1982 in the old Act operative with effect from 1.10.1982, Section 92-A was introduced, making provision for "no faulty liability". The Act was enacted on 14.10.1988, but became operative with effective from 1.7.1989. In the Act, the amount payable was Rs.25,000/- as no fault liability. The amount was raised to Rs.50,000/- by amendment operative with effect from C 14.11.1994.

D 7. In *R.L. Gupta v. Jupital General Insurance Co.* [1990(1) SCC 355] it was held the quantum of liability is provided by the Statute prospectively. At the relevant point of time the quantum of Rs.15,000/- appears to have been paid. The High Court's view about retrospective operation is contrary to what has been stated in *R.L. Gupta's* case (supra). In any event, Act can have no application in respect of a claim petition filed on 30.11.1982 and decided by MACT on 16.7.1984.

E 8. Above being the position the appeal deserves to be allowed, which we direct. The amount shall be Rs.15,000/- instead of Rs.50,000/- as directed by the Tribunal.

9. The appeal is allowed to the aforesaid extent.

B.B.B.

Appeal allowed.