

FULL BENCH

Before Harbans Singh, C.J., R. S. Narula and P. C. Jain, JJ.

SHANTI DEVI,—Appellant.

Versus

GENERAL MANAGER, HARYANA ROADWAYS, AMBALA
AND OTHERS,—Respondents.

Letters Patent Appeal No. 274 of 1970

March 15, 1971.

Letters Patent—Clause X—Motor Vehicles Act (IV of 1939)—Section 110-D—Award of Motor Accidents Claims Tribunal—Appeal against the award decided by Single Judge of High Court—Letters Patent Appeal against such decision—Whether lies—High Court while hearing appeal under section 110-D—Whether acts as Court—Order in appeal under section 110-D—Whether a 'judgment'—Proceedings before the Motor Accidents Claims Tribunal—Whether in the nature of arbitration proceedings.

Held, that an appeal under Clause X of the Letters Patent lies against the decision of a Single Judge of the High Court disposing of an appeal against the award of the Motor Accidents Claims Tribunal given under section 110-D of Motor Vehicles Act. (Para 1)

Held, that High Court while hearing appeals under section 110-D of the Act acts as a 'Court'. (Para 4)

Held that an order in appeal under section 110-D of the Act is final and definitive in nature. It conclusively determines the right of the parties with regard to all matters in issue. Hence the order of a Single Judge while deciding an appeal under section 110-D of the Act is a 'judgment' within the meaning of Clause X of Letters Patent. (Para 5)

Held, that proceedings before Motor Accidents Claims Tribunal do not have any similarity or semblance with the arbitration proceedings. It is correct that in the Act the decision of the Claims Tribunal is called an award but that by itself would not warrant a finding that proceedings before the Claims Tribunal are in the nature of arbitration proceedings, and the Claims Tribunal decides the matter as an arbitrator. The word 'award' has been used synonymous with the word 'decree' and it has not been used to convey the meaning that the proceedings before the Claims Tribunal are in the nature of arbitration proceedings. The Claims Tribunal for all intents and purposes discharges the same functions and duties in the same manner as a Court of law is expected to do. Hence the proceedings before the Claims Tribunal are not in the nature of arbitration proceedings and that the Claims Tribunal while disposing of the claims acts as a Court.

(Para 7)

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Letters Patent Appeal under Clause X of the Letters Patent of the High Court against the judgment of the Hon'ble Mr. Justice C. G. Suri, dated 25th February, 1970 in F.A.O. No. 14 of 1964—"Shmt. Shanti Devi vs. General Manager, Punjab Roadways, Ambala and others", reversing that of Shri G. S. Gyani, Motor Accidents Claims Tribunal, Punjab, Chandigarh dated the 10th September, 1963, allowing the widow and the minor children a sum of Rs. 20,000 as compensation.

M. S. JAIN, ADVOCATE, for the appellants.

G. C. MITTAL, ADVOCATE, for the respondents.

JUDGMENT

P. C. JAIN, J.—The short question that requires determination in these cases may be stated thus :—

Does an appeal lie under Clause 10 of the Letters Patent against the decision of a learned Single Judge in appeal filed against the award of the Motor Accidents Claims Tribunal (hereinafter referred to as the Claims Tribunal) given under section 110-D of the Motor Vehicles Act, 1939 (hereinafter referred to as the Act)?

(2) The view of this Court as is evident from the Bench decision in *Fazilka-Dabwali Transport Co., (Private), Ltd. v. Madan Lal* (1), 1968 PLR 9, is that such an appeal is not competent under clause 10 of the Letters Patent. At the time of the preliminary hearing, the correctness of the said Bench decision was challenged and on the strength of a Full Bench decision of the Delhi High Court in *The Municipal Corporation of Dehli v. Kuldip Lal Bhandari and others* (2), it was contended that an appeal lay under clause 10 of the Letters Patent and that the Bench decision of this Court in *Fazilka-Dabwali Transport Company's case* (1), did not lay down correct law. Finding some merit in the contention of the learned counsel for the appellant, these appeals were admitted and were ordered to be heard by a Full Bench. It is in these circumstances that these appeals have come up for hearing before us.

(1) I.L.R. (1968) 1 Pb. & Har. 625=1968 P.L.R. 9.

(2) 1969 P.L.R. 318 (Delhi Section).

(3) The point which needs determination, was argued with ability by Mr. M. S. Jain, learned counsel for the appellant; it was contended by him that proceedings before the Claims Tribunal were not in the nature of arbitration proceedings and that this Court decides appeal, under section 110-D of the Act as a Court. It was also contended that the Claims Tribunal, while disposing of the claims also acts as a Court. On the contention of the learned counsel for the appellant, the first question that requires determination is the nature of the jurisdiction of the High Court dealing with an appeal under section 110-D of the Act.

(4) This question came up for consideration in *Fazilka Dabwali Transport Company's* case (1), wherein, on this aspect of the matter, Shamsher Bahadur J., who prepared the judgment observed thus (on pages 13 and 14 of the report):—

“Mr. Goswami rightly seeks support from the Supreme Court decision for his contention that the right of appeal is conferred by statute and is not a right which is given to the High Court under the general law. Neither the Tribunal nor consequently the High Court is strictly speaking a Court; indeed, the phraseology employed in section 110-C itself is indicative of that intendment. The Claims Tribunal in holding an inquiry has been given certain powers of a Civil Court for certain specified purpose. Obviously, the Tribunal cannot be regarded as a Court, strictly speaking, and the employment of the word “award” gives a complexion of arbitration to its proceedings. Naturally, it cannot be said that a right of appeal under Clause 10 of the Letters Patent is to be inferred; it must be so specifically granted.

* * * * *

The thread of reasoning in both these English decisions is that where a statute confers the right of hearing to an established Court, then the ordinary incidents of procedure with regard to appeal would be applicable. Can it be said

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in the present instance that the Claims Tribunal or the High Court heard the matters referred to them as established Court without more? I think the answer to this question would be in the negative considering the setting and background of sections 110-B to 110-F of the Act. The Claims Tribunal has been invested with status different from a Civil Court and likewise the appeal to the High Court must take its colour and complexion from the original proceedings and subject to special conditions of the statute.”

From the discussion in the judgment it is clear that the above quoted observations were made primarily on the strength of the judgment of their Lordships of the Supreme Court in *Hanskumar Kishan Chand v. The Union of India* (3), wherein Venkatarama Aiyar J., on page 952 of the report, observed thus:—

“Under section 19(1)(b), the reference is admittedly to an arbitrator. He need not even be a Judge of a Court. It is sufficient that he is qualified to be appointed a Judge of the High Court. And under the law, no appeal would have lain to the High Court against the decision of such an arbitrator. Thus, the provision for appeal to the High Court under section 19(1)(f) can only be considered as a reference to it as an authority designated and not as a Court. The fact, that, in the present case, the reference was to a District Judge would not affect the position. Then again, the decision of the arbitrator appointed under section 19(1)(b) is expressly referred to in section 19(1)(f) as an award. Now, an appeal is essentially a continuation of the original proceedings, and if the proceedings under section 19(1)(b) are arbitration proceedings, it is difficult to see how their character can suffer a change, when they are brought up before an appellate tribunal. The decisions in *Special Officer, Salsette Building Sites v. Dossabhai Bezonji*, (4), *Special Officer Salsette Building Sites v.*

(3) A.I.R. 1958 S.C. 947.

(4) I.L.R. 37 Bom. 506.

Dossabhai Bezonji (5), *Manavikraman Tirumulpad v. Collector of Nilgris* (6), and *Secretary of State for India v. Hindusthan Co-operative Insurance Society Ltd.* (7), proceed all on the view that an appeal against an award continues to be part of, and a further stage of the original arbitration proceedings. In our view, a proceeding which is at the inception an arbitration proceeding must retain its character as arbitration, even when it is taken up in appeal, where that is provided by the statute."

But in view of the latest decision of their Lordships of the Supreme Court in *Collector, Varanasi v. Gauri Shanker Misra and others* (8), the above view in *Hanskumar Kishan Chand's* case (3) does not hold the field any more as it has been expressly dissented from in that judgment. In *Gauri Shanker's* case (8), one of the questions involved was whether the decision of the High Court in appeal under section 19(1)(f) of the Defence of India Act was amenable to special leave to the Supreme Court under Article 133 of the Constitution of India. Under the Defence of India Act the provision of appeal as contained in section 19(1)(f) is in the following terms:—

"An appeal shall lie to the High Court against an award of an arbitrator excepting in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the Central Government."

While construing the said provision and also the question whether the High Court acted as a 'Court' when deciding the appeal against the award of the arbitrator, Mr. Justice Hegde, speaking for the Court, observed thus (on pages 387 and 388 of the report):—

"(5) The fact that the arbitrator appointed under section 19(1) (b) is either a designated person or a tribunal—as to whether he is a person designated or a tribunal we express no opinion—does not in any way bear on the question whether the 'High Court' referred to under section 19(1) (b) is a Court or not. Our statutes are full of instances where appeals or revisions to Courts are provided as against the

(5) 17 Cal. W.N. 421 (P.C.)

(6) I.L.R. 41 Mad. 943—A.I.R. 1919 Mad: 626:

(7) 58 I.A. 259—A.I.R. 1931 P.C: 149.

(8) A.I.R. 1968 S.C. 384.

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decisions of designated persons and tribunals. See for example, Advocates Act, Trade Marks Act. Reference in this connection may usefully be made to the decisions in *National Sewing Thread Co., v. James Chadwick Bros.* (9), (to which reference has already been made), and the *Secretary of State v. Chellikani Rama Rao* (10).

- (6) *Prima facie* it appears incongruous to hold that the High Court is not a 'Court'. The High Court of a State is at the apex of the State's judicial system. It is a Court of record. It is difficult to think of a High Court as anything other than a 'Court'. We are unaware of any judicial power having been entrusted to the High Court except as a 'Court'. Whenever it decides or determines any dispute that comes before it, invariably does so as a 'Court'. That apart, when section 19(1)(f) specifically says that an appeal against the order of an arbitrator lies to the High Court, we see no justification to think that the legislature said something which it did not mean.
- (7) We may now turn our attention to the decision of this Court in *Hanskumar Kishan Chand vs. The Union of India* (3), on which, as mentioned earlier, Shri Goyal placed a great deal of reliance in support of his preliminary objection. The principal question that arose for decision in that case was whether the decision rendered by the High Court under section 19(1)(f) was a judgment, decree or final order within the meaning of those words found in section 109 of the Code of Civil Procedure. The Court accepted the contention of the Solicitor General appearing for the respondent, the Union of India, that it was not a judgment, decree or final order, and that being so, no certificate under sections 109 and 110 of the Code of Civil Procedure to appeal to the Federal Court could have been given by the High Court. In that case this Court was not called upon to consider the scope of Article 136. Therefore it did not go into the question whether the decision appealed against could be considered as a determination falling within the scope of

(9) 1953 S.C.R. 1028—A.I.R. 1953 S.C: 357:

(10) 43 I.A. 192—A.I.R. 1916 P.C. 21:

Article 136. In arriving at the conclusion that the decision in question is not a judgment, decree or final order, this Court relied on the decisions in *Rangoon Botatoung Co. v. Collector, Rangoon* (11), *Special Officer, Salsette Building Sites v. Dossabhai Bezonji Motiwala* (5), *Manavikraman Tirumalpad v. Collector of Nilgiris* (6), and *Secretary of State v. Hindusthan Co-operative Insurance Society Ltd.* (7). The effect of those decisions is summed up in that very judgment at pp. 1,186 and 1,187 of SCR : (at page 951 of A.I.R.) and this is how it put:

“The law as laid down in the above authorities may thus be summed up. It is not every decision given by a Court that could be said to be a judgment, decree or order within the provisions of the Code of Civil Procedure or the Letters Patent. Whether it is so or not will depend on whether the proceeding in which it was given came before the Court in its normal civil jurisdiction, or *de hors* it as a *persona designata*. Where the dispute is referred to the Court for determination by way of arbitration as in *Rangoon case* (11), (PC), or where it comes by way of appeal against what is statedly an award as in *Special Officer Salsette Building Sites v. Dossabhai Bezonji*, (4), *Manavikraman Tirumalpad vs. Collector of Nilgiris* (6) and *Secretary of State for India vs. Hindusthan Co-operative Insurance Society Ltd.* (7), then the decision is not a judgment, decree or order under either the Code of Civil Procedure or the Letters Patent.”

The decisions relied on by this Court merely lay down the proposition that the decision given by the High Court in an appeal against an award is neither a decree, judgment of final order. None of the aforementioned decisions lay down the proposition that the High Court, while exercising its appellate power did not function as a ‘Court’. The observation in this Court’s judgment that the provision for appeal to the High Court under section 19(1)(f) can only be construed as reference to it as an authority designated and not as a Court, does not receive any support from

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those decisions. Nor do we find any sound basis for that conclusion. With respect to the learned Judges, who decided that case, we are unable to agree with that conclusion. In our judgment, while acting under section 19(1)(f), the High Court functions as a 'Court' and not as a designated person. Our conclusion in this regard receives support from the decision of the Judicial Committee in *Secretary of State v: Chellikani Rania Rao* (10), referred to earlier. Dealing with the ratio of its decision in *Rangoon Botatoung Co.'s case* (11), this is what Lord Shaw of Dunfermline observed (at page 198 of the report):

"It was urged that the case of (1912) 39 Ind App. 197 (PC) enunciated a principle which formed a precedent for excluding all appeals from the decision of the district Court in such cases as the present. Their Lordships do not think that that is so. In the *Rangoon Case* (11), a certain award had been made by the Collector under the Lard Acquisition Act. This award was affirmed by the Court which under the Act meant a principal civil Court of original jurisdiction. Two judges sat as 'the Court' and also as the High Court to which the appeal is given from the award of 'the Court'. The proceedings were, however, from beginning to end ostensibly and actually arbitration proceedings. In view of the nature of the question to be tried and the provisions of the particular statute, it was held that there was no right 'to carry an award made in an arbitration as to the value of land' further than to the Courts specifically set up by the statute for the determination of that value".

As a result of the above discussion it was held that the decision rendered by the High Court under section 19(1)(f), was a 'determination' and it was within the competency of the Court to grant special leave under Article 136. In view of this latest decision of their Lordships of the Supreme Court in *Gauri Shankar's case* (8), it is not necessary to dilate on this aspect of the matter any more as it can straight-away be held that this Court, while hearing appeals under section 110-D of the Act, would act as a Court and that a proceeding even if at its inception has a semblance of an arbitration proceedings,

would not retain its character as such in appeal. The contrary view taken by the learned Judges in *Fazilka Dabwali Transport Company's* case (1), which was primarily based on the decision of their Lordships of the Supreme Court in *Hanskumar Kishan Chand's* case (3), is not good law.

(5) It takes me to the next question whether order in appeal under section 110-D is a 'judgment' within the meaning of clause 10 of the Letters Patent. It may be observed that in *Gauri Shankar's* case (8), this question was not decided as it did not arise for consideration. Mr. Jain, learned counsel for the appellants, cited certain decisions in support of his contention that the order of a learned Single Judge in appeal filed against the award under section 110-D, is a 'judgment' within the meaning of clause 10 of the Letters Patent. Precisely this very issue was under consideration before a Full Bench of the Delhi High Court in the *Municipal Corporation Delhi's* case (2) (supra), wherein the learned Judges after reviewing various judicial pronouncements held that the decision of a learned Single Judge was a 'judgment' of the High Court within the meaning of clause 10 of the Letters Patent. Even more opposite would appear to be the recent pronouncement of the Supreme Court in *Shri Radhey Shyam v. Sham Behari Singh*, (12). In that case the question that arose for consideration was whether an order of a learned Single Judge of a High Court setting aside auction sale under Order 21, Rule 90 of the Code of Civil Procedure, is a 'judgment' and whether a letters patent appeal lies against it. Mr. Justice Shelat, after reviewing the entire case law, agreed with the High Court and held such an order to be a 'judgment' within the meaning of clause 10 of the Letters Patent. The following observations on page 408 of the report may be read with advantage:—

“For an order to be a 'judgment' it is not always necessary that it should put an end to the controversy in the suit or should terminate the suit. Even the narrower definition of a "judgment" as given by Couch, C.J., in the *Justices of the Peace for Calcutta* (13), was that it must mean a decision which affects the merits of the question between the parties by determining some right or liability and such a decision might be either final, preliminary or interlocutory.”

(12) 1970 (2) S.C. 405.

(13) 8 Beng. L.R. 433.

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This decision of their Lordships of the Supreme Court indicates the essential features of a 'judgment' and relying on the same what I need say is that in my opinion an order in appeal under section 110-D does satisfy the test of a 'judgment' as formulated in that case. There is no gain saying that an order of this Court in appeal under section 110-D is final and definitive in nature. It conclusively determines the rights of the parties with regard to all matters in issue. Thus the only possible conclusion that can be arrived at is that the decision of a learned Single Judge in appeal is a 'judgment' within the meaning of clause 10 of the Letters Patent.

(6) The only other point that needs determination is whether the Claims Tribunal, while deciding the claims acts as a Court and the proceedings before him are not in the nature of arbitration proceedings. Before the question can be answered, it is necessary to find out what the attributes of a Court are. This matter is not *res integra*. What the attributes of a Court are, have been laid down by their Lordships of the Supreme Court in various decisions. In *Thakur Jugal Kishore Sinha v. The Sitamarhi Central Co-operative Bank Ltd. and another* (14), the question that fell for determination was whether the Assistant Registrar of Co-operative Societies under the Bihar and Orissa Co-operative Societies Act, 1935, was acting within the meaning of Contempt of Courts Act, 1952. After considering the case law on the subject, it was held that the Assistant Registrar functioning under the Bihar and Orissa Co-operative Societies Act is a Court subordinate to High Court for purpose of section 3 of the Contempt of Courts Act. The following observations of their Lordships of the Supreme Court, which appear at page 1499 of the report, may be read with advantage:—

"It will be noted from the above that the jurisdiction of the ordinary civil and revenue Courts of the land is ousted under section 57 of the Act in case of disputes which fell under section 48. A Registrar exercising powers under section 48 must, therefore, be held to discharge the duties which would otherwise have fallen on the ordinary civil and revenue Courts of the land. The Registrar has not merely the trappings of a Court, but in many respects he is given the same powers as are given to ordinary civil

(14) A.I.R. 1967 S.C. 1494.

Courts of the land by the Code of Civil Procedure including the power to summon and examine witnesses on oath, the power to order inspection of documents, to hear the parties after framing issues, to review his own order and even exercise the inherent jurisdiction of Courts mentioned in section 151 of the Code of Civil Procedure. In such a case there is no difficulty in holding that in adjudicating upon a dispute referred under section 48 of the Act, the Registrar is to all intents and purposes, a Court discharging the same functions and duties in the same manner as a Court of law is expected to do."

A similar question came up for consideration before their Lordships of the Supreme Court in *Virindar Kumar v. State of Punjab* (15), wherein it was observed thus:—

"It may be stated broadly, that what distinguishes a Court from a quasi-judicial tribunal is that it is charged with a duty to decide disputes in a judicial manner and declares the rights of parties in a definitive judgment. To decide in a judicial manner involves that the parties are entitled as a matter of right to be heard in support of their claim and to adduce evidence in proof of it. And it also imports an obligation on the part of the authority to decide the matter on a consideration of the evidence adduced and in accordance with law. When a question, therefore, arises as to whether an authority created by an Act is a Court as distinguished from a quasi-judicial tribunal, what has to be decided is whether having regard to the provisions of the Act it possesses all the attributes of a Court."

At this stage reference may also be made to a passage from *Cooper v. Wilson* (16), and referred to in *Brajnandan Sinha's case*, which reads thus:—

"A true judicial decision presupposes an existing dispute between two or more parties, and then involves four requisites:—(1) The presentation (not necessarily orally) of their case by the parties to the dispute; (1) if the dispute between them is a question of fact, the ascertainment of the

(15) A.I.R. 1956 S.C. 153.

(16) (1937) 2 K.B. 309.

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fact by means of evidence adduced by the parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence; (3) if the dispute between them is a question of law, the submission of a legal arguments by the parties; and (4) a decision which disposes of the whole matter by a finding upon the facts in dispute and an application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law."

A similar question came up for consideration before the Bombay High Court in *Smt. Rajiyabi Cosman Sayi and another v. M/s. Mackinon Machinazie and Co. Pvt. Ltd.* (17). In that case the questions which arose for consideration were whether the Commissioner under the Workmen's Compensation Act, 1923, acted as a Court, whether his decision was a judgment and whether order of the High Court in appeal under section 30 of that Act was a judgment within clause 15 of the Letters Patent. The learned Judges after considering the various judicial pronouncements, held as follows:—

"Now, the disputes so required to be settled by a Commissioner are disputes as to the liability of any person to pay compensation or as to the amount or duration of compensation between an employer and his workmen or his legal representative, and the rules of procedure require an applicant to file before a Commissioner a written application and an opponent a written statement thereto. Further the Commissioner has to frame and record issues on which a right decision of the case depends and has to record evidence, documentary and oral, which may be tendered by the parties; he has to maintain a brief record of the proceedings and finally pronounce his "judgment" recording findings on each of the issues and his reasons therefor. It is also to be observed that the Commissioner has almost all the powers which an ordinary Civil Court would have of summoning witnesses, compelling production of documents, examining witnesses on oath and coming to the conclusion on the basis of evidence adduced and arguments advanced and that under section 24 parties can be represented before him by legal practitioners. Under section

27 the Commissioner has also the power to submit any question of law for the decision of the High Court. The Commissioner can recover as arrear of land revenue any amount ordered to be paid by him so that the result amounts to a decree pronounced by a Court of law. Section 19(2) ousts the jurisdiction of the Civil Court to decide any question required to be decided by the Commissioner under the Act. It is, therefore, quite clear that the proceedings before him are not of the nature of arbitration, but approximate closely to the proceedings in a Civil Court and his adjudication is a judgment recording his finding on each of the issues and his reasons therefor, and that in adjudicating upon a dispute under section 19 of the Act the Commissioner is, to use the language of the Supreme Court in *Jugal Kishore's case* (14), "to all intents and purposes a Court discharging the same functions and duties in the same manner as a Court of law is expected to do."

(7) It is to be borne in mind that claims for damages caused by the persons incharge of motor vehicles were being entertained by ordinary civil Courts in India prior to the enactment of Motor Vehicles (Amendment) Act 100 of 1960, which for the first time empowered the State Government to constitute one or more Claims Tribunals. Motors Vehicles Act, 1939, was extensively amended by the Central Act No. 100 of 1956, to bring about speedy adjudication of the claims of compensation by the Claims Tribunal constituted under the Act to deal with accident claims. The bunch of sections 110 to 110-F deal with the subject of the substitution of the Claims Tribunals in place of civil Courts for the purpose of adjudicating on claims for compensation in respect of accidents involving the death or bodily injury to persons arising out of the use of motor vehicles. Section 110 empowers the State Government to constitute one or more Claims Tribunals to adjudicate upon claims for compensation in respect of accidents involving the death of, or bodily injury to persons, arising out of the use of motor vehicles. Under sub-section (3), qualifications for appointment to the Claims Tribunal are mentioned which provide that he should be or had been a Judge of the High Court, or a District Judge, or is qualified for appointment as a Judge of the High Court. It is only in respect of those areas for which such Claims Tribunals are constituted that the jurisdiction of the civil Courts is taken away. Section 110-A of the Act provides

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procedure for making an application for compensation. Section 110-B empowers the Claims Tribunal, after giving the parties an opportunity of being heard to "hold an enquiry into the claim" and to "make an award determining the amount of compensation which appears to it to be just". Section 110-C prescribes the procedure and powers of the Claims Tribunal wherein it is provided that subject to any rules that may be made in this behalf, the Claims Tribunal:

- (a) is to follow such summary procedure as it thinks fit, and
- (b) for the purpose of adjudicating upon any claim for compensation, may choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

It is further provided that the Claims Tribunal would

(A) have all the powers of a Civil Court Firstly, for the purpose of

- (a) taking evidence on oath,
- (b) enforcing the attendance of witnesses, and
- (c) compelling the discovery and production of documents and material objects, and

Secondly, for such other purposes as may be prescribed under section III of the Act, by Central Government.

(B) be deemed to be a Civil Court for all purposes of section 195 and Chapter XXXV of the Code of Civil Procedure

Section 110-D provides appeal against the award of the Claims Tribunal and is in the following terms:—

- (1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellants were prevented by sufficient cause from preferring the appeal in time.

- (2) No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than two thousand rupees."

To carry out the purpose of sections 110-A to 110-F of the Act in exercise of the powers conferred under section 111-A, Punjab Motor Accidents Claims Tribunal Rules, 1964 (hereinafter referred to as the Rules) have been framed. At this stage reference may be made to certain relevant rules which read as under:—

16. Framing of Issues.—After considering any written statement, the evidence of the witness examined and the result of any local inspection, the Claims Tribunal shall proceed to frame and record the issues upon which the right decision of the case appears to it to depend.
17. Determination of Issues.—After framing the issues, the Claims Tribunal shall proceed to record evidence hereon which each party may desire to produce.
18. Diary.—The Claims Tribunal shall maintain a diary of the proceedings on an application.
19. Judgement and award of compensation.—(1) The Claims Tribunal, in passing orders shall record concisely in a judgement the finding on each of the issues framed and the reasons for such findings and make an award specifying the amount of compensation to be paid by the insurer and also the person or persons to whom compensation shall be paid.
- (2) Where compensation is awarded to two or more persons the Claims Tribunal shall also specify the amount payable to each of them.
20. Code of Civil Procedure to apply in certain cases.—

The following provisions of the First Schedule to the Code of Civil Procedure, 1908, shall so far as may be apply to proceedings before the Claims Tribunals, namely Order V, Rules 9 to 13 and 15 to 30. Order IX, Order

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XIII, Rules 3 to 10; Order XVI, Rules 2 to 21; Order XVII and Order XVIII, Rules 1 to 3

21. Form and manner of appeals against the award of Claims Tribunal.

An appeal against the award of a Claims Tribunal shall be preferred in the form of a memorandum stating concisely the grounds on which the appeal is preferred. It shall be accompanied by a copy of the judgment and the award appealed against.

From the bare reading of the rules it transpires that under rule 16, the Claims Tribunal is required to frame issues. Under rule 17, the Claims Tribunal records evidence on those issues, which each party may desire to produce. Under rule 18, the Claims Tribunal is required to maintain a record of the proceedings. Under rule 19, the Claims Tribunal has to write out a judgment, record his reasons, give his finding on each of the issues framed and make an award specifying the amount of compensation to be paid by any person and to whom. Under rule 20 certain provisions of the Code of Civil Procedure have been made applicable to the proceedings before the Claims Tribunal by virtue of which he has almost all the powers which an ordinary civil Court would have of summoning witnesses, compelling production of documents, examining witnesses on oath and coming to the conclusion on the basis of the evidence adduced and arguments advanced. Rule 21 provides form and manner of appeals which may be filed against the award of the Claims Tribunal and one of the requirements of this rule is that the appeal shall be accompanied by a copy of the judgment and the award appealed against. Under section 110-F, a power is given to the Claims Tribunal to issue a certificate and get recovery of money which is due from any person, made as an arrear of land revenue through the Collector. Section 110-F bars the jurisdiction of the Civil Court to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area. It is, therefore, obvious that the proceedings before the Claims Tribunal do not have any similarity or semblance with the arbitration proceedings. In the arbitration proceedings the arbitrator is not required to frame issues or record the evidence nor is he required to give his decision on each

and every point. The arbitrator has no power to enforce his awards. It is correct that in the Act the decision of the Claims Tribunal is called an award but that by itself would not warrant a finding that proceedings before the Claims Tribunal are in the nature of arbitration proceedings, and the Claims Tribunal decides the matter as an arbitrator. In my view, as is apparent from the perusal of the rules referred to above, the word 'award' has been used synonymous with the word 'decree' and it has not been used to convey the meaning that the proceedings before the Claims Tribunal are in the nature of arbitration proceedings. I am fortified in this conclusion of mine especially from the language of rules 19 and 21 where the word 'judgment' and the word 'award' have been used separately. Under rule 21 it is provided that the appeal shall be accompanied by a copy of the judgment and the award appealed against and in rule 19 it is mentioned that the Claims Tribunal is to record in judgment concisely a finding on each of the issues framed under rule 16 and the reasons for such findings. The proceedings before the Claims Tribunal closely resemble to the proceedings in a civil Court and to use the language of their Lordships of the Supreme Court in *Jugal Kishore's case* (14), the Claims Tribunal for all intents and purposes discharges the same functions and duties in the same manner as a Court of law is expected to do. In this view of the matter I hold that the proceedings before the Claims Tribunal are not in the nature of arbitration proceedings and that the Claims Tribunal while disposing of the claims acts as a Court.

(8) For the reasons recorded above, the question is answered in the affirmative and it is held that an appeal lies under Clause 10 of the Letters Patent against the decision of a learned Single Judge in appeal filed against the award of the Motor Accidents Claims Tribunal given under section 110-D of the Act.

Harbans Singh, C.J.—I agree.

R. S. Narula, J.—I also agree.

K. S. K.