

Barkat Singh and others *vs.* Hans Raj Pandit and others
(S. S. Kang, J.)

and dispose of or as the District Judge of the District may make over to them for being dealt with and disposed of. Under sub-section (3), an Additional District Judge, who deals with and disposes of such cases, shall be deemed to be the Court of the District Judge. Under the notification dated 4th November, 1966, issued by this court, all the cases pertaining to Barnala Tehsil and Dhuri and Phul sub-tehsils are to be dealt with and disposed of by the Court of the Additional District and Sessions Judge at Barnala with the result that under sub-section (3) of section 21, such an Additional District Judge shall be deemed to be the Court of the District Judge. Section 12(10) of the Sikh Gurdwaras Act, 1925 says that save as otherwise provided in that Act, a decree or order of a tribunal shall be executed or otherwise given effect to by the district court of the district. Now, in view of the notification and the other relevant provisions of the Punjab Courts Act, the Court of the Additional District Judge at Barnala shall be deemed to be the Court of the District Judge with the result that it shall be deemed to be the District Court for the purposes of Section 12(10) of the Sikh Gurdwaras Act. The view taken by a learned Single Judge of this Court in *Mahant Harsaran Das case* (supra), in view of the aforesaid discussion, with respect does not lay down the correct law and, consequently, the same is overruled.

(7) For the reasons recorded above, the reference is answered in favour of the decree-holder that the Court of the Additional District Judge at Barnala is a District Court for the purpose of execution of the decree and for which the Committee had filed the execution application. The parties through their learned counsel have been directed to appear before the Executing Court on 8th January, 1985.

N.K.S.

Before P. C. Jain, A.C.J. & S. S. Kang, J.

BARKAT SINGH AND OTHERS,—Petitioners.

versus

HANS RAJ PANDIT AND OTHERS,—Respondents.

Civil Revision No. 1478 of 1982.

November 16, 1984.

*Code of Civil Procedure (V of 1908)—Sections 3 and 115—
Motor Vehicles Act (IV of 1939)—Section 110-C to 110-F—Application
made to Tribunal by a party for impleading an additional respon-
dent—Such an application dismissed by Tribunal—Order of*

Tribunal—Whether amenable to the revisional jurisdiction of the High Court—Tribunal deciding a claim application—Whether a Civil Court for purposes of Section 115 of the Code.

Held, that a reading of Section 110-C to 110-F of the Motor Vehicles Act, 1939 relating to the constitution, powers to be exercised and the procedure to be followed by the Claims Tribunal leave no manner of doubt that the Claims Tribunal is a Judicial Authority clothed by the Act, with inherent judicial powers of the State to determine disputes between parties on merits fairly and objectively. It is a quasi judicial Tribunal possessing the trappings of the Court. It is, however, not enjoined by law to observe all the rules of procedure contained in the Code of Civil Procedure and the Evidence Act which is binding on the Civil Courts. The Claims Tribunal has been constituted for a specific purpose i.e. to adjudicate upon claims for compensation in relation to accidents causing death or bodily injuries arising out of accidents by the use of motor vehicles. On the other hand, the Civil Court does not possess the power to devise its own procedure and it is obliged to follow the procedure of the Code in the trial of the suits in letter and spirit. If the Claims Tribunal had been accepted or treated to be a 'Court' by the Parliament then there was no need to enact section 110-F of the barring the jurisdiction of the Civil Courts to entertain any claim or compensation which may be adjudicated upon by the Claims Tribunal. It was equally unnecessary in this context to provide by sub-section (2) of Section 110-C of the Act that the Claims Tribunal shall be deemed to be a Civil Court for the purpose of contempt purposes. As such it has to be held that the Claims Tribunal while deciding claims application under the Act is not a Civil Court and for the purpose of Section 3 of the Code of Civil Procedure 1908 subordinate to the Court and amendable to the revisional jurisdiction of the High Court under Section 115 of the Code.

(Paras 3, 6 & 10).

This case was referred to a Division Bench by the Hon'ble Mr. Justice Sukhdev Sing Kang on 8th November, 1983 as some important question of law is involved in the case. The Division Bench consisting of Hon'ble the Acting Chief Justice Mr. Prem Chand Jain and Hon'ble Mr. Justice Sukhdev Singh Kang decided the question of law involved in the case on 16th November, 1984.

Petition under Section 115 C.P.C. for revision of the order of Shri Rajinder Kumar Synghal, Motor Accident Claims Tribunal, Sangrur, dated 19th May, 1982, dismissing the compensation application.

P. N. Arora, Advocate, for the Petitioner.

R. K. Battas, Advocate for the Respondent No. 1.

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JUDGMENT

Sukhdev Singh Kang, J.

(1) In this revision petition filed on behalf of claimants the following two questions have been referred for decision by a Division Bench:—

- (a) Whether Motor Accident Claims Tribunal while deciding claim applications filed under the Motor Vehicles Act, is a Civil Court, subordinate to the High Court for the purposes of section 115 of the Code of Civil Procedure ? and
- (b) Whether the orders passed by a Tribunal in those proceedings are amenable to the revisional jurisdiction of the High Court ?

The facts leading to this reference lie in a short compass and may be stated thus—

(2) Barkat Singh and others (claimants) filed a claim application before the Motor Accident Claims Tribunal (hereinafter called 'the Claims Tribunal'). During the pendency of those proceedings, they moved an application for impleading Pal Singh as a respondent to the claim application. The Claims Tribunal dismissed the application. The claimants filed a revision petition under section 115, Civil Procedure Code ('the Code' for short) in this Court. During the hearing of the revision petition, a preliminary objection was raised by the counsel for the respondents that the revision petition was not competent because the Claims Tribunal against whose decision the revision petition was filed was not a court of civil judicature and was not a court subordinate to the High Court. Its orders were not amenable to the revisional jurisdiction of the High Court under section 115 of the Code. The learned counsel for the respondents also contended that the decision of the learned Single Judge of this Court in *Messrs Delhi Bhiwani Transport Co. v. Ram Niwas Surekha and others*, (1) holding that the Claims Tribunal acts as a Court while disposing of the claims arising out of the motor vehicles accidents and a revision petition

(1) 1980 A.C.J. 207.

is maintainable against his orders does not lay down correct law under section 115 of the Civil Procedure Code.

(3) Before proceeding to deal with the questions arising in this revision petition, we may briefly refer to the relevant statutory provisions having a bearing on the controversy:

Code of Civil Procedure, 1908:

“S. 3. *Subordination of courts:*—For the purposes of this Code, the District Court is subordinate to the High Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court.

S. 115. *Revision.* (1)—The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceedings, except where—

- (a) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceeding, or
- (b) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) ”

Section 110 of the Motor Vehicles Act, 1939 (for short ‘the Act’) was substituted and the present sections 110, 110-A, 110-B, 110-C,

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110-D, 110-E and 110-F were added by section 80 of the Motor Vehicles (Amendment) Act 100 of 1956. Section 110 of the Act deals with the constitution and appointment of Claims Tribunal for the purpose of adjudicating upon claims for compensation in relation to accidents involving death or bodily injuries to persons arising out of the use of motor-vehicles. Section 110-B of the Act provides that on receipt of an application for compensation, the Claims Tribunal shall hold an inquiry and hear the parties and make an award determining the amount of compensation and specify the persons liable to pay the same. Section 110-C of the Act lays down the procedure to be adopted by the Claims Tribunal. Sub-section (1) and sub-section (2) of section 110-C, of the Act, are relevant for our purpose and they read as under:—

S. 110-C. *Procedure and powers of Claims Tribunals:—*

- (1) In holding any inquiry under section 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).

* * * * *

An appeal against the award of the Claims Tribunal lies under section 110-D of the Act to the High Court. The Collector under section 110-E is empowered to recover the amount of compensation as arrears of land revenue on a certificate issued by the Claims Tribunal. The jurisdiction of the Civil Courts to entertain questions relating to claims for compensation which may be determined by the Claims Tribunal and to issue injunctions in respect of any action taken or to be taken by or

before a Claims Tribunal, is barred by section 110-F of the Act. Powers have been conferred on the Central Government by section 111 to make rules for the purpose of carrying into effect the provisions of Chapter VIII of the Act.

(4) Similarly the State Governments have been invested with powers to make rules under section 111-A of the Act for the purpose of carrying into effect the provisions of sections 110 to 110-E of the Act. In exercise of this power, the State of Punjab has framed Punjab Motor Accidents Claims Tribunals Rules, 1964, ('the Rules' for short). Rule 20 of the Rules provides that the provisions of Order V, rules 9 to 13 and 15 to 30, Order IX, Order XIII, rules 3 to 10, Order XVI, rules 2 to 21, Order XVIII, Order XXI and Order XXIII, rules 1 to 3, shall be applicable to the proceedings before the Claims Tribunal.

(5) The Code of Civil Procedure, as the preamble suggests, has been enacted to consolidate and amend the laws relating to the procedure of courts of civil judicature. It is manifest from the provisions of section 115 of the Code that the High Court can in exercise of the revisional jurisdiction call for the record of a case decided by a Court subordinate to it. *Sine qua non* for exercise of jurisdiction under this provision is the order by a Subordinate Court. Under section 3 of the Code, Civil Courts and Courts of Small Causes are subordinate to the District Court and the High Court and the District Court in turn is subordinate to the High Court. The term "Court" is not defined in the Code of Civil Procedure or the Constitution.

(6) The provisions of the Act relating to the constitution, powers to be exercised and the procedure to be followed by the Claims Tribunal leave no manner of doubt that the Claims Tribunal is a Judicial Authority clothed by the Act, with inherent judicial powers of the State to determine disputes between parties on merits fairly and objectively. The Claims Tribunal possesses the powers to summon and examine witnesses, to cross-examine them and to order discovery admission or denial of documents. It decides the claim for compensation and renders a binding decision. An appeal is provided against its decisions. It is a *quasi judicial* Tribunal possessing the trappings of the Court. It is, however, not enjoined by law to observe all the rules of procedure contained in the Code of Civil Procedure and the Evidence Act which are binding on the Civil Courts. The Claims Tribunal has been

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constituted for specific purpose i.e. to adjudicate upon claims for compensation in relation to accidents causing death or bodily injuries arising out of accidents by the use of motor vehicles. It has no jurisdiction to entertain or decide any other claim, dispute, suit or cause. The functions and duties of the Claims Tribunal are very much like those of a body discharging judicial functions, though it is not a "Court".

(7) In *The Bharat Bank, Ltd. Delhi v. The Employees of the Bharat Bank, Ltd., Delhi, etc.* (2), it was observed by Mahajan, J:—

"It appears to me that before a person or persons can be said to constitute a Court, it must be held that they derive their powers from the State and are exercising the judicial powers of the State.

.....

As pointed out in picturesque language by Lord Sankey L.C. in *Shell Co. of Australia v. Federal Commissioner of Taxation*, (1931) A.C. 275: (100 L.J.P.C. 55), there are tribunals with many of the trappings of a Court which, nevertheless, are not Courts in the strict sense of exercising judicial power. It seems to me that such tribunals though they are not full-fledged Courts, yet-exercise quasi-judicial functions are within the ambit of the word 'tribunal' in Art. 136 of the Constitution. It was pointed in the above case that a tribunal is not necessarily a Court in this strict sense because it gives a final decision, nor because it hears witnesses on oath, nor because two or more contending parties appear before it between whom it has to decide, nor because it gives decisions which effect the rights of subjects nor because there is an appeal to a Court, nor because it is a body to which a matter is referred by another body. The intention of the Constitution by the use of the word "Tribunal" in the article seems to have been to include within the scope of Art. 136 tribunals adorned with similar trappings as Court but strictly not coming within that definition."

The distinction between a 'Court' and a 'tribunal' has been brought out by the Supreme Court in *Associated Cement Companies Ltd. v. P. N. Sharma and anothers* (3). It was observed:—

“.....

The expression “Court” in the context denotes a tribunal constituted by the State as a Part of the ordinary hierarchy of Courts which are invested with the State's inherent judicial powers. A sovereign State discharges legislative, executive and judicial functions and can legitimately claim corresponding powers which are described as legislative, executive and judicial powers. Under our Constitution, the judicial functions and powers of the State are primarily conferred on the ordinary Courts which have been constituted under its relevant provisions. The Constitution recognised a hierarchy of Courts and to their adjudication are normally entrusted all disputes between citizens and citizens as well as between the citizens and the State. These Courts can be described as ordinary Courts of civil judicature. They are governed by their prescribed rules of procedure and they deal with question of fact and law raised before them by adopting a process which is described as judicial process. The powers which these Courts exercise, are judicial functions and the decisions they reach and pronounce are judicial decisions.”

Regarding a 'tribunal' it was observed:—

“.....

Special matters and questions are entrusted to them for their decision and in that sense, they share with the Courts one common characteristic; both the Courts and the tribunals are “constituted by the State and are inversed with judicial as distinguished from purely administrative or executive functions.” (*Vide Durga Shankar Mehta v. Raghuraj Singh*, (4). They are both adjudicating bodies and they deal with and finally

(3) A.I.R. 1965 S.C. 1595.

(4) 1955—1 S.C.R. 267 to P. 272 (A.I.R. 1954 S.C. 520

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determine disputes between parties which are entrusted to their jurisdiction. The procedure followed by the Courts is regularly prescribed and in discharging their functions and exercising their powers, the Courts have to conform to that procedure. The procedure which the tribunals have to follow may not always be so strictly prescribed, but the approach adopted by both the Courts and the tribunals is substantially the same, and there is no essential difference between the functions that they discharge. As in the case of Courts, so in the case of tribunals, it is the State's inherent judicial power which has been transferred and by virtue of the said power, it is the State's inherent judicial function which they discharge. Judicial functions and judicial powers are one of the essential attributes of a sovereign State, and on considerations of policy, the State transfers its judicial functions and powers mainly to the Courts established by the Constitution; but that does not affect the competence of the State, by appropriate measures, to transfer a part of its judicial powers and functions to tribunals by entrusting to them the task adjudicating upon special matters and disputes between parties

The Civil Court does not possess the power to devise its own procedure. It is obliged to follow the provisions of the Code of Civil Procedure in the trial of the suits in letter and spirit. There is no such obligation on the claims. Tribunal, Subject to the rules framed it is entitled to follow such summary procedure as it may think fit. If the Claims Tribunal had been accepted or treated to be a "Court" by the Parliament then there was no need to enact section 110-F of the Act barring the jurisdiction of the Civil Courts to entertain any questions relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal or to issue injunction in respect of such claims. It was equally unnecessary in this context to provide by sub-section (2) of section 110-C of the Act that the Claims Tribunal shall be deemed to be a Civil Court for the purpose of punishment for contempt and perjury. A Division Bench of the Kerala High Court in *Beeran v. Rajappan*, (5) had an occasion to consider as

to whether the Claims Tribunal was a Court and its orders were amenable to the revisional jurisdiction of the High Court under section 115 of the Code of Civil Procedure. After carefully examining the law on the point it was observed:—

“With the growth of civilisation and the problems of modern life, a large number of administrative tribunals have come into existence. These tribunals have the authority of law to pronounce upon valuable rights; they act in a judicial manner and even take evidence on oath, but they are not part of the ordinary Courts, of Civil Judicature. They share the exercise of the judicial power of the State, but they are brought into existence to implement some administrative policy or to determine controversies arising out of some administrative law. They are very similar to Court, but are not Courts

By ‘Courts’ is meant Courts of Civil Judicature and by ‘tribunals’, those bodies of men who are appointed to decide controversies arising under certain special laws.

.....Their procedures may differ, but the functions are not essentially different. What distinguishes them has never been successfully established. Lord Stamp said that the real distinction is that courts have ‘an air of detachment.’”

(8) Within this jurisdiction a question arose as to whether an appeal under clause 10 of Letters Patent lay against a decision of a Single Judge on appeal against the award made by the Claims Tribunal. The matter was examined in great detail by a Full Bench of this Court in *Shanti Devi and others v. The General Manager, Haryana Roadways and others*, (6), wherein it was observed:—

“.....
.....
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

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in *Jugdł Kishore's* case, 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.

This conclusion is in tune with the ratio of the decision of the Final Court in *Associated Cement Companies Limited's* case. No doubt, it has been observed that the proceedings before the Claims Tribunal closely resembles the proceedings in Civil Court, but it has not been held that Claims Tribunal is a Court subordinate to the High Court. Relying on the above mentioned decision in *Shanti Devi's* case (supra) Harbans Lal, J. in *Ram Niwas Surekha's* case (supra) held that the Claims Tribunal was a Civil Court for the purpose of section 115 of the Code. It will be appropriate to notice the findings of the learned Single Judge on this issue *in extenso*:

“Regarding the four revision petitions a preliminary objection was taken on behalf of the respondent-claimants that the same were not competent as the Tribunal under the Act is not a Civil Court and as such section 115 of the Code of Civil Procedure relating to revisions petitions is not applicable. This contention is not tenable. It was held by a Full Bench of this Court in *Shanti Devi and Others v. The General Manager, Haryana Roadways and others*, that the Claims Tribunal for all intents and purposes discharges the same functions and duties and in the same manner as the Court of Law. Thus the Tribunal acts as a Court while disposing of the claims and the revision petitions were maintainable.”

No doubt, the Claims Tribunal acts as a Court when he adjudicates upon a claim for compensation but it is not a Court in the technical sense of the term and is not part of hierarchy of the Civil Courts recognised by the Constitution. It is only a *quasi judicial* Tribunal exercising judicial functions and powers specifically conferred on it.

(9) The Judicial Commissioner of Goa, Daman and Diu has held in *British Indian Genl. Ins. Co. Ltd. Margao v. Chanbi Shaikh Abdul Kadar*, (7):—

“The Claims Tribunal cannot be regarded as a civil Court for the purposes of interference in revision under section 115(c) of the Civil Procedure Code and section 8(2) (b) (i) of the Goa Daman and Diu (Judicial Commissioner’s Court) Regulation, 1963. It can, however, be regarded as a Tribunal for the purposes of supervisory jurisdiction vested in the High Court under Article 227 of the Constitution of India.”

(10) For the foregoing reasons, we hold that the Claims Tribunal while deciding claims applications filed under the Act is not a Civil Court subordinate to the High Court for the purpose of section 115 of the Code of Civil Procedure and the orders passed by the Claims Tribunal are not amenable to the revisional jurisdiction of the High Court. Both the questions are answered in the negative. There shall be no order as to costs.

(PREM CHAND JAIN)

Acting Chief Justice.—I agree

H. S. B.

Before S. S. Sodhi, J.

NEW INDIA ASSURANCE CO. LTD.—Appellant.

versus

M/S JOLLY ENGINEERS & CONTRACTORS (P) LTD.

AMRITSAR AND OTHERS,—Respondents.

First Appeal from Order No. 520 of 1980.

November 20, 1984.

Motor Vehicles Act (IV of 1939)—Sections 95, 96, 110-B and 110-D—Motor Vehicle sold and possession delivered to the purchaser—Transferor, however, continuing to be shown as owner in the records of the registering authority—Vehicle meets with an accident—Claim for compensation—Liability for compensation—Whether of the purchases—Insurance company with which the vehicle stood insured before sale—Whether liable.

(7) 1968 A.C.J. 322.