

Central Administrative Tribunal
Principal Bench

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O.A. No. 1527/2003

New Delhi, this the 7 ^{1/2} day of January, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.A. Singh, Member (A)

Const. (Dvr.) Surajmal No. 4961/DAP
s/o Sh. Hukam Chand,
R/o Quarter No. 46, Police Colony,
I.I.T. Gate, Hauz Khas,
New Delhi - 110 016.

...Applicant

(By Advocate: Shri Ashwini Bhardwaj)

Versus

1. Delhi Administration,
through Chief Secretary,
Secretariat,
Indira Gandhi Stadium
Indraprastha Estate,
New Delhi.
2. Deputy Commissioner of Police,
Vth Ban., DAP,
Police Headquarter,
Indraprastha Estate,
New Delhi.

...Respondents

(By Advocate: Shri Ajay Gupta)

O R D E R

Justice V.S. Aggarwal, Chairman -

Applicant (Surajmal) seeks quashing of the order dated 26.4.2003 and further to direct the respondents **not** to recover any amount from the applicant in relation to the order of 2.2.2002 passed by the learned Motor Accident Claim Tribunal, New Delhi.

2. Some of the relevant facts can conveniently be delineated.
3. On 20.9.1993, a Government vehicle i.e. Jail Van No. DEP-

5138 driven by the applicant, was carrying under trials from Tis Hazari lock up to Central Jail. At about 5.15 P.M. as the Jail Van reached Lajwanti Garden, Jail Road Crossing, a cyclist was going in the same direction. The cyclist collided with the left front wheel of the jail van, as a result of which left foot of the cyclist was grievously injured. The case against the applicant punishable with respect to offences under Sections 279/338 Indian Penal Code had been registered against the applicant. It appears that the said matter was settled in the court of the learned Metropolitan Magistrate and the applicant had simply been admonished.

4. The injured i.e. Kanak Borah had filed a suit before the learned Motor Accident Claim Tribunal seeking compensation. The Motor Accident Claim Tribunal awarded a compensation of Rs. 1,26,600/- to the injured. The operative part of the award of the Motor Accident Claim Tribunal reads:

"In view of my findings on the abovesaid issue, a sum of Rs. 1,26,600/- is awarded to the petitioner against the respondents jointly and severally. The petitioner would also be entitled to interest @ 9% p.a. from the date of filing of the petition i.e. 2.3.1994 till realisation of the awarded amount. 90% of the awarded amount with upto date interest be deposited in FDR in any of the Nationalised Banks for a period of 10 years with the provision that the petitioner would be entitled to draw quarterly interest but will not be granted any loan against the said FDR."

5. The matter had been referred to the Govt. of National Capital Territory of Delhi for obtaining the sanction for payment of the compensation amount. The sanction was accorded and the payment had been made to the injured by the respondents.

6. The grievance of the applicant is that an attempt is being made to recover the 50% of the compensation amount from

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applicant in pursuance of the order which, according to the applicant, is illegal. Hence the present application.

7. The respondents contest the application. It has been pointed that before effecting the recovery of 50% of the compensation amount, the applicant had been asked whether he has filed any appeal against the award of the learned Motor Accident Claim Tribunal or not? He, instead of filing an appeal, has preferred the present application.

8. Learned counsel for the applicant urged that in the criminal matter that was registered against the applicant, he has since been acquitted and, therefore, the recovery of the alleged 50% of the compensation cannot be effected.

9. We have no hesitation in rejecting the said contention. While giving the resume of facts, we have already pointed that the acquittal of the applicant, if any, was on the basis of some settlement that had been arrived at. Otherwise also, the respondents pointed that applicant in fact was admonished. The order of the learned Motor Accident Claim Tribunal is not available, ^{even} but if it be taken that the applicant had been acquitted, this does not permit him to represent that compensation cannot be made payable by him. This is for the reasons that the acquittal of an accused can be on a different ground while the award of the learned Motor Accident Claim Tribunal has to be enforced in accordance with law. This plea, therefore, on the premise, referred to above, must fail. In that event, it was contended that the respondents in the matter before the Motor Accident Claim Tribunal had clearly stated that the applicant was not negligent in driving the vehicle and, therefore, recovery cannot be effected from him. A copy of the reply so filed is on the record. However, the said reply and the

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facts mentioned become irrelevant because the learned Motor Accident Claim Tribunal had ignored the same and while deciding issue no. 1 held that the injured had sustained injuries because of rash and negligent driving of the jail van, referred to above, which was being driven by the applicant. In face of the findings of the learned Tribunal, this particular plea so much thought of must be held to be incompetent for any further probing.

10. All the same, perusal of the award of the Motor Accident Claim Tribunal clearly shows that the learned Tribunal had held the Government of National Capital Territory of Delhi and the applicant to be jointly and severally liable to pay the compensation. Thus, it would tantamount that the applicant and the Government of National Capital Territory of Delhi in strict legal sense would be joint judgement debtors. Once the respondents had paid the entire compensation, the recovery, if any, can only be effected in accordance with law. The Motor Accident Claim Tribunal had not apportioned the liability. There is nothing on the record that thereafter any attempt had been made to apportion the liability. There is no procedure that has been adopted to effect the recovery from the joint judgement debtors and, therefore, in the absence of any such actions having been taken, respondents on their own could not fix and fasten the liability of 50% on the applicant. While doing so, the principles of vicarious liability have also not been considered.

11. For the reasons recorded in the preceding paragraphs, we quash the impugned order and direct that the recovery, if any, to be effected should only be done in accordance with law. No costs.



(S.A.SINGH)
Member (A)



(V.S.AGGARWAL)
Chairman