

The Indian Law Reports

Punjab Series

APPELLATE CIVIL

Before A. N. Grover, J.

PUSHPA DEVI AND OTHERS,—*Petitioners.*

versus

MUNICIPAL CORPORATION OF DELHI AND ANOTHER,—
Respondents.

F.A.O. 80-D of 1959.

*Motor Vehicles Act (IV of 1939)—Section 110-A—
Claims Tribunal constituted under—Whether can enter-
tain applications for compensation against Municipal Cor-
poration, Delhi and its employees—Delhi Road Transport
Authority Act (XIII of 1950)—Section 47—Notification
issued under—Effect of—Delhi Municipal Corporation
Act (LXVI of 1957)—Sections 295 and 516—Effect of.*

1963.

March, 29th.

Held, that the Claims Tribunal constituted under section 110-A of the Motor Vehicles Act, 1939 has the jurisdiction to entertain and adjudicate upon the application for compensation and grant relief against the Municipal Corporation Delhi or its employees with regard to the compensation for injuries caused by the buses which are run by the Delhi Transport Undertaking which is the successor of the Delhi Road Transport Authority. The power conferred on the Central Government under clause (d) of section 47 of the Delhi Road Transport Authority Act, 1950 and clause (d) of section 295 of the Delhi Municipal Corporation Act, 1957 is confined only to those provisions of the Motor Vehicles Act or the rules made thereunder which relate to the carrying of certificates of registration and fitness. The notification which was issued under section 47 (e) of the Delhi Road Transport Authority Act does not survive as it does not fall under any of the clauses (a), (b), (c) and (d) of section 295 of

the Delhi Municipal Corporation Act, and has ceased to be effective or operative.

Appeal from the order of Shri Munni Lal, Claims Tribunal Motor Vehicles Act, Delhi, dated 11th June, 1959, dismissing the application.

M. L. MEHRA, ADVOCATE, for the Petitioner.

G. B. SINGH, YOGESHWAR DAYAL AND G. B. BHATACHARYA, ADVOCATES, for the Respondents.

JUDGEMENT

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GROVER, J.— This order shall dispose of First Appeal from order No. 80-D of 1959 and the connected writ petitions (Civil Writs Nos. 144-D, 151-D, 152-D/61, 153-D, 188-D, 189-D, 190-D, 205-D, 206-D, 207-D, 208-D, and 209-D of 1960 and 240-D/1961.

The facts in the appeal alone may be stated. One Jagan Nath Ahuja, whose legal representatives the appellants are, was knocked down by a motor vehicle belonging to the Delhi Transport Undertaking on 26th November, 1957 resulting in his death. An application was made by the appellants under section 110-A of the Motor Vehicles Act, 1939 (to be referred to as the Act) for recovery of Rs. 30,000 as compensation. The parties that were impleaded were the Municipal Corporation of Delhi and Gian Singh, the driver of the bus. An objection was raised by the respondents that no such application lay under section 110-A of the Act as the Central Government had exempted the motor vehicles of the Delhi Road Transport Authority from the provisions of Chapter VIII of the Act. A preliminary issue was framed to the following effect:—

“Whether the claim as against the respondents under section 110-A of the Motor Vehicles Act is maintainable?”

Shri Muni Lal, acting as Claims Tribunal under the Act, upheld the preliminary objection. The writ petitions have been filed for quashing the orders of the Claims Tribunal in which a contrary view has been taken, namely that the Tribunal could entertain and decide the claim. The point solely, therefore, is one of the jurisdiction of the Claims Tribunal to grant relief against the Municipal Corporation or its employees with regard to the compensation for injuries caused by the buses which are run by the Delhi Transport Undertaking which admittedly is the successor of the Delhi Road Transport Authority.

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Section 47 of the Delhi Road Transport Authority Act, 1950 (XIII of 1950) was as follows:—

“47. Application of the provisions of the Motor Vehicles Act, 1939, or any rules made thereunder, to vehicles and employees of the Authority—The Motor Vehicles Act, 1939, (in this section referred to as the said Act) shall have effect subject to the following provisions, namely:—

- (a) The Central Government may, by notification in the Official Gazette, authorise, subject to such terms and conditions, if any, as it may think fit to impose, any person to exercise and perform to the exclusion of the Licensing Authority, Registering Authority, Motor Vehicles Inspector, Traffic Inspector, Regional Transport Authority or State Transport Authority, as the case may be and without following the procedure laid down for the purpose in the said Act, all or such of the powers, functions and duties of any

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Licensing Authority, any Registering Authority, any motor vehicles Inspector, any Traffic Inspector, any Regional Transport Authority or the State Transport Authority under the said Act or under any rules made thereunder in relation to the motor vehicles of the Authority and the drivers and conductors of those vehicles, as may be specified in the notification.

- “(b) The Central Government may, if it so thinks necessary, by order cancel, suspend or vary the conditions of any Stage carriage, contract carriage or public carriers’ permit which has been granted or countersigned under Chapter IV of the said Act by any Regional Transport Authority in the State of Delhi or by the State Transport Authority, Delhi, and is valid within the whole or any part of that State, and any order so passed shall be final.
- (c) If the Central Government, by order in writing, so directs, any Regional Transport Authority within the State of Delhi, or the State Transport Authority, Delhi, shall not grant, countersign or renew any permit under Chapter IV of the said Act other than a private carrier’s permit.
- (d) The Central Government, may, by order in writing, exempt the motor vehicles of the Authority or its employees from the provisions of the said Act or of any

rules made thereunder relating to the carrying of certificates of registration and fitness and from all or any of the provisions of Chapter IV of the said Act.

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- (e) The Central Government may, by notification in the Official Gazette, exempt the motor vehicles of the Authority from the operation of the provisions of Chapter VIII of the said Act."

Section 48 was to the effect that no notification was to be issued under clause (e) of section 47 unless a fund had been established and was maintained by the Authority in accordance with the rules made in that behalf by the Central Government under the Act for meeting any liability arising out of the use of any vehicle of the Authority which the Authority or any person in its employment might incur to third parties. By means of a notification No. SRO 711, dated 9th April, 1953 under section 47(e) the Central Government exempted the motor vehicles of the Delhi Transport Authority from the operation of the provisions of Chapter VIII of the Act. Chapter VIII of the Act, as originally enacted, relates to insurance of motor vehicles against third party risks and commenced with section 93. Section 94, as it appeared in the Act before its amendment by Act 100 of 1956 ran as follows:—

- '94. (1) No person shall use except as a passenger or cause or allow any other person to use a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter.

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Explanation.—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Subject to any prescribed conditions sub-section (1) shall not apply to any vehicle owned by any of the following authorities, namely:—

(a) * * * * *
* * * * *
* * * * *

(vi) any local authority in a Province of India exempted from the operation of sub-section (1) by order of the Central-Government or of a Provincial Government;

(vii) any local authority established or continued by the authority of the Central Government in the exercise of its extra-provincial jurisdiction exempted from the operation of sub-section (1) by order of the Central Government;

(viii) any local authority in an Acceding State or other Indian State wherein policies of insurance are required by provision of law to be taken but in relation to the use of motor vehicles, which has been exempted from the operation of such provision.”

At the time when the notification was issued under section 47(e) of Act XIII of 1950 there was no machinery embodied in Chapter VIII of the Act for appointment of a Claims Tribunal and for the award of compensation by it in the event of an application being made in respect of accident involving death or bodily injury arising out of the use of the motor vehicles—It was for the first time that by the amending Act 100 of 1956 the provisions relating to Claims Tribunals were introduced into the Act. Section 110, as substituted, laid down how the Claims Tribunal was to be constituted. Section 110-A relates to the applications for compensation, section 110-B to the award of the Claims Tribunal, Section 110-C to the procedure and powers of Claims Tribunal, section 110-D of the appeals against the award of the Tribunal, section 110-E to the recovery of money from insurer as arrear of land revenue and section 110-F to the bar of jurisdiction of Civil Courts. By section 516 of the Delhi Municipal Corporation Act, 1957 (hereinafter to be called the Corporation Act), Act XIII of 1950 was repealed alongwith various other enactments. It was provided by sub-section (2) that notwithstanding such repeal any appointment, notification etc. made under that enactment and the other Acts which were repealed 'shall' in so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued or granted under the provisions of this Act, unless and until it is superseded by any appointment notification, order, scheme, rule, form, notice or bye-law made or issued or any licence or permission granted under the said provisions" and all debts, obligations and liabilities incurred, by any of the local authorities under the aforesaid enactments were to be deemed to have been incurred by the Corporation. Section 295 of the Corporation Act says that the Act shall have effected subject to the provisions mentioned therein. Clauses

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(a), (b), (c) and (d) are virtually a reproduction of equivalent clauses of section 47 of Act XIII of 1950. There are a few changes which will be presently noticed but clause (e) which appeared in section 47 was altogether omitted from section 295. Now, the notification which was issued under section 47(e) would survive by virtue of the provisions contained in section 516 of the Corporation Act provided it was not inconsistent with the provisions of that Act itself. Owing to the provisions contained in section 295 of the Corporation Act the notification would become inconsistent unless it can be said to fall under clause (d) of that section Clause (d) is as follows:—

“(d) The Central Government may, by order in writing, exempt the motor vehicles of the Corporation or the employees of the Undertaking from the provisions of the said Act or of any rules made thereunder relating to the carrying of certificate of registration and fitness.”

It is noteworthy that this clause is a verbatim reproduction of clause (d) of section 47 of Act XIII of 1950 with this exception that the following words which appear in clause (d) of section 47 have been omitted:—

“and from all or any of the provisions of Chapter IV of the said Act.”

The learned counsel for the Corporation has commended the view that the Central Government has been given under clause (d) of section 295 of the Corporation Act the power to exempt the motor vehicles of the Corporation or the employees of the Undertaking from the provisions of the Act or any rules made thereunder whereas the learned counsel for the applicants before the Claims Tribunal in the

various cases contend that this power to exempt is confined only to those provisions or rules which relate to the carrying of certificates of registration and fitness. Chapter IV of the Act deals with control of transport vehicles beginning with section 42 which provides for necessity for permits and the subsequent sections deal with the machinery for providing for grant of permits etc. The mere fact that the words "and from all or any of the provisions of Chapter IV of the said Act" which appeared in clause (d) of section 47 of Act XIII of 1950 have been omitted from clause (d) of section 295 of the Corporation Act, will not affect the position. Chapter IV is concerned with something which is quite distinct from the provisions and the rules relating to the carrying of certificates of registration and fitness. If the argument of the learned counsel for the Corporation is to be accepted, then clause (e) of section 47 of Act XIII of 1950 as also section 48 would have been wholly redundant because the operative language of clause (d) would have covered the grant to the Central Government of an overall power to exempt the motor vehicles of the Authority or its employees from all the provisions of the Act. Normally it is not permissible to interpret statutes in such a manner as to treat certain provisions as redundant. It is apparent that the power conferred on the Central Government under clause (d) of section 47 of Act XIII of 1950 and clause (d) of section 295 of the Corporation Act is confined only to those provisions of the Act or the rules made thereunder which relate to the carrying of certificates of registration and fitness. It follows from this that the notification which was issued under section 47(e) on which the Corporation has relied for claiming exemption from the provisions of the Act does not survive any longer as it would be inconsistent with the provisions of section 295 of the Corporation Act which says that the Act shall have effect subject to the provisions

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contained in clauses (a), (b), (c) and (d). As the notification does not fall under any one of those clauses, it must be treated as having ceased to be effective or operative. If the matter were to rest here, there would be no difficulty in the way of holding that the Claims Tribunal would have jurisdiction to entertain the applications, which have been filed before it by the various applicants, but what seems to have created a hurdle is the scheme of the provisions constituting the Claims Tribunal and the powers that have been conferred on it.

Section 110-B provides that on receipt of an application for compensation made under section 110-A the Claims Tribunal shall, after giving the parties an opportunity of being heard, hold an inquiry into the claim and may make award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid, and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer. Section 11-E is to the effect that where any money is due from an insurer under an award, the Claims Tribunal may, on an application made to it by the person entitled to the money, issue a certificate for the amount to the Collector, and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue. Section 110-F lays down that where a Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claims for compensation shall be granted by the Civil Court. The position taken up on behalf of the Municipal Corporation is that the Tribunal can only

make an effective award against the insurer because the only machinery for enforcing the award is contained in section 110-E which relates to recovery of money from the insurer and there is no provision whatsoever in the entire Act for enforcing the award against any other party or parties. A closer scrutiny of the provisions of Chapter VIII of the Act will be helpful in this connection. Section 94 which provides for necessity for insurance against third party risks was amended by Act 100 of 1956 and sub-section (3) is as follows:—

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“(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely:—

- (a) the Central Government or a State Government if the vehicle is used for Government purposes connected with any commercial enterprise;
- (b) any local authority;
- (c) any State Transport Undertaking within the meaning of section 68A:

Provided that no such order shall be made in relation to any such Authority unless a fund has been established and is maintained by that Authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that Authority which that Authority or any person in its employment may incur to third parties.

Explanation.—For the purposes of this sub-section ‘appropriate Government’ means

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the Central Government or a State Government as the case may be, and in relation to any local authority or State transport undertaking, means that Government which has control over that local authority or State transport undertaking”.

Section 95 contains the requirements of policies and the limits of liability. Section 95-A relates to validity of policies of insurance issued in reciprocating countries. Section 96 contains the obligations of the insurers to satisfy judgments against persons injured in respect of third party risks. Section 97 is with regard to the rights of third parties against insurers on insolvency of the insured. Section 98 relates to the duty to give information as to insurance, section 99 to settlement between insurers and insured persons, section 101 to insolvency of insured persons which is not to affect liability of insured or claims by third parties, section 102 to the effect of death on certain causes of action, section 103 to the effect of certificate of insurance, section 104 to the duty to surrender certificate on cancellation of policy, section 105 to the duty of insurer to notify registering authority, cancellation or suspension of policy, section 106 to the production of certificate of insurance, section 107 to production of certificate of insurance on application for authority to use vehicle, section 108 to co-operative insurance and section 109 to the duty to furnish particulars of vehicle involved in accident. Chapter VIII contemplates and provides for compulsory insurance against third party risks and makes the insurer liable for satisfying judgments against insured persons in respect of third party risks, the liability being limited in certain respects. There is a compulsion in the matter of all the vehicles being insured so that there should be no difficulty in the matter of the satisfaction of judgments against the persons insured in respect of

third party risks. Section 94 does give the power to the appropriate Government to exempt from the operation of sub-section (1) any vehicle owned by the Central Government or a State Government, any local authority or any State Transport Undertaking. If no order exempting the vehicles owned by the Government or the local authorities is made under sub-section (3) of section 94, then it would have been necessary even for those vehicles to be compulsorily insured against third party risks. The proviso to sub-section (3) reproduces the provisions of section 48 of Act XIII of 1950, the object being that where such an exemption has been granted, the liability will be met out of the fund established and maintained by the authority concerned. One possible view which has been canvassed on behalf of the Corporation can be that the sections relating to the Claims Tribunal were introduced only with the object of providing a machinery for making an award against the insurers and for a speedy recovery of money from them as arrears of land revenue. The language of section 110-B which says that in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer as also the language of section 110-E and the omission of any provision relating to the enforcement of the award against anyone else but the insurer would lend support to this view. On the other hand, it is contended on behalf of the applicants before the Tribunal that the essential object of creating the Claims Tribunal is to provide a speedy and effective remedy for adjudication of claims arising out of accidents so as to avoid the dilatory and lengthy procedure of regular actions in Courts and that this comparatively cheap and more effective remedy could never have been intended to be denied in respect of the claim for compensation against motor vehicles belonging to the Government or the local authorities including the vehicles of the Delhi

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Municipal Corporation. It is suggested that although there is no specific provision for enforcing the award against the Government or the local authority in the Act, nevertheless, when an award is made and when the exemption under section 94 can be ordered only where a fund has been established for meeting the third party liabilities, the award made by the Claims Tribunal will be satisfied out of that fund and the legislature must be deemed to have intended that the award shall be so executed or satisfied. There is also the bar of jurisdiction of Civil Courts created by section 110-F and it is pointed out that the Civil Courts will have no jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal which may lead to the result that no action can be filed in the Civil Courts against the Municipal Corporation in the present cases. The learned counsel for the Corporation has submitted that the bar of jurisdiction will only be confined to those matters which are within the jurisdiction of the Claims Tribunal and as that Tribunal is not competent as is clear from the entire scheme of the provisions set out before, to make out any effective and enforceable award against the Municipal Corporation, the applicants shall certainly have complete rights to resort to the Civil Courts for recovery of damages against the Corporation or its employees.

The question that I have been called upon to determine is one of first impressions and is not free from difficulty. The learned counsel for the Corporation has invited my attention to *Sant Singh v. Gulab Singh* (1) which was a decision of a Full Bench. Jai Lal, J., has observed in his separate judgment that it is a well-recognised rule of law that no Court shall pass an infructuous and ineffective decree—a decree which

(1) A. I. R. 1928 Lah. 573

it cannot enforce. Similarly it has been suggested that the Claims Tribunal could not have been intended by the legislature to pass an infructuous award which cannot be enforced. I am not satisfied that merely because no machinery has been provided for enforcing the award given by the Tribunal against the Corporation, there is no jurisdiction in the Tribunal to make the award at all when one of the parties is the Corporation. Proviso to section 94, to which reference has already been made, makes it quite clear that no exemption can be granted from the provisions of Chapter VIII of the Act with regard to the vehicles belonging to a local authority unless a fund has been established and is maintained by the authority in accordance with the rules for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties. The Legislature appears to have considered that so far as vehicles which were not exempt from the operation of Chapter VIII of the Act were concerned, they would have to be compulsorily insured and it would be the insurers who would have to satisfy the award made by the Tribunal and it has been so provided. But when the award is in respect of the use of any vehicle belonging to the Government or the local authority or a State Transport Undertaking by which a fund has been created for meeting claims of third parties, those authorities would themselves satisfy the award and there was altogether no necessity of making a provision by which a machinery would be created for enforcing that award in the same manner or on the same lines as provided by section 110-E of the Act. Whenever any award is made in respect of compensation payable by the Government or any local authority, there is hardly any necessity of making such a provision because it becomes essential to create a machinery for the enforcement of a decree or award only if it is anticipated

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that it will not be satisfied or honoured or accepted in the ordinary way. A reference to some of the other enactments which make provisions for awards being made with regard to compensation would be highly useful and instructive. In the Delhi Road Transport Authority Act, 1950 itself, there was a provision for compensation for acquisition of road transport undertakings. Section 46 was to the effect that whenever the authority acquired the whole or any part of any undertaking, there was to be paid by the Authority compensation, the amount of which was to be determined in the manner and in accordance with the principles set out in that section. Sub-sections (a) to (c) of section 46 contained no provisions for enforcements of any award made by the Arbitration Tribunal, although under sub-section (b) when there could be no agreement in the matter of compensation, it had to be determined by an Arbitration Tribunal. Section 19 of the Defence of India Act, 1939, provided that where by or under any rule made under the Act any action was taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there was to be paid compensation, the amount of which was to be determined in the manner and in accordance with the principles set out in the section. Where the amount of compensation could be determined by agreement, it was to be paid in accordance with such agreement. Where no such agreement could be reached, the Central Government had to appoint an Arbitrator. An appeal was to lie to the High Court against an award made by the Arbitrator. The Central Government could make rules for carrying out the provisions of that section and in particular and without prejudice to the generality of that power the rules could prescribe:—

- (a) the procedure to be followed in arbitrations under that section;

- (b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and an appeal;
- (c) the maximum amount of an award against which no appeal would lie.

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As far as I have been able to see, there was no machinery provided for enforcing that award either by the Act or the rules which were framed under that Act. In the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, section 8 provided for principles and methods of determining compensation. Where the compensation could not be fixed by agreement, an Arbitrator had to be appointed who had to make an award determining the amount of compensation which appeared to him to be just and specify the person or persons to whom such compensation was to be paid. It was clearly provided that nothing in the Arbitration Act, 1940 was to apply to arbitrations under that section. Section 9 was to the effect that the amount of compensation in the award was to be paid or given by the competent authority to the person or persons entitled thereto in such manner and within such time as might be specified in the award. But supposing the competent authority did not pay the amount awarded, there was no provision in the Act itself for enforcing that award either by way of execution or in any other manner or by means of coercive process against the competent authority. Even under the Land Acquisition Act of 1894, when the Collector makes an award under section 11, all that is to be done is that under section 12 that award has to be filed in the Collector's office and the Collector has to give immediate notice of the award to such of the persons interested as are not present personally or by their representative when the award is made. There is no provision for enforcing that award if the Collector does not pay the amount of compensation under it.

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It is significant that section 26 of that Act provides that every award under Part III shall be in writing signed by the Judge etc. and shall be deemed to be a decree within the meaning of section 2(2) of the Code of Civil Procedure. Part III deals with reference to Court and procedure thereon and not the award made by the Collector under Part II. The position is the same under the Life Insurance Corporation Act 1956 (see sections 16 & 17). If the argument of the learned counsel for the Corporation is correct, then all these awards made under the statutes referred to before could not have been validly made as there was no machinery for enforcing them in the various enactments under which they are made. This lends support to the view that in case of Government or Governmental authorities and institutions or authorities which would include local bodies, the Legislature took it for granted that as soon as an award was properly and validly made it would be satisfied and honoured by those authorities. The contention canvassed by the learned counsel for the Corporation on the analogy of inexecutable decrees or awards cannot, therefore, be acceded to. The language of section 110-B does not militate against this view. Under that provision what the Claims Tribunal has to do is to make an award determining the amount of compensation specifying the person or persons to whom it shall be paid and it is further enjoined to specify the amount which shall be paid by the insurer. This has to be done because of the provisions contained in the Act itself that the liability of the insurer would be limited in accordance with section 95 of the Act.

The provisions by which the Claims Tribunal have been constituted were introduced after the Constitution of India came into force. It is difficult to envisage that the Legislature in the presence of Article 14 would have accorded discriminatory treatment with

regard to the machinery or the remedy provided for claiming compensation arising out of the use of the vehicles owned by the Government or the Local bodies or State transport undertakings and those owned by others. As observed before, apparently the object of constituting a Tribunal of this nature was to provide a speedy remedy to the injured or to their legal representatives in case the injured person died. The remedy was not only to be speedy but also cheap and if the legal representatives of a deceased were to be driven to a regular action in case of vehicles owned by the Government or the Local bodies etc. then it would be a clear case of discrimination because it would be denial of an effective, expeditious and cheap remedy to them without there being any reasonable basis for that classification. In numerous cases when an injured person dies, his legal representatives are left with meagre or no funds and if in every case of a death caused by motor vehicles belonging to the Government or the local bodies, they have to file a suit, it means a good deal of expense on court-fees and other incidental expenses in Court. It is hardly an argument that they can file an application in *forma pauperis* because some of them may not be paupers and yet any litigation in Court would involve them in a great deal of expenses which they may not be able to afford. The Legislature, therefore, could not have intended that they should be deprived of the benefit conferred by section 110-A to D of the Act. Section 110-F which creates a bar of jurisdiction of Civil Courts is also couched in such language that it is difficult to hold that where any Claims Tribunal has been constituted, the Civil Courts would be left with any jurisdiction to entertain any question relating to any claim for compensation which could be adjudicated upon by the Claims Tribunal for that area. This also shows that the Legislature intended to oust the Civil Courts of all powers and jurisdiction in the matter of claims for

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compensation which could be made under section 110-A. At any rate, whatever the position may be with regard to other parties, it seems to me that the position of the local authority under section 94 in whose case a special fund has been created is analogous to that of an insurer and for that reason also there is no escape from the conclusion that the Claims Tribunal would have jurisdiction to entertain the claims preferred before it by the appellant in the appeal and by the respondents in the writ petitions.

For all these reasons the appeal is allowed and the order of the Tribunal is set aside and it is directed to give an award in accordance with law in respect of the claim of the appellant. The writ petitions are, however, dismissed. Keeping in view all the circumstances, the parties are left to bear their own costs.

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LETTERS PATENT APPEAL

Before Daya Krishan Mahajan and Shamsher Bahadur, JJ.
MESSRS BHIM SEN-WALAITI RAM—Appellant.

versus

THE COLLECTOR OF DELHI AND OTHERS,—Respondents.

Letters Patent Appeal No. 50-D of 1960.

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Delhi Liquor Licence Rules—Rule 5.34. clause 21—Auction sale of liquor shop—Conditions of sale providing that the final bid would be subject to the confirmation of the Chief Commissioner—Chief Commissioner withholding his confirmation—Auction sale—Whether complete—Auction purchaser whether liable for the short-fall on re-auction.

Held, that the Chief Commissioner of Delhi has the over-all control and is the final authority in respect of excise auctions in Delhi. His sanction is an essential *sine qua non* for the close of auction sales. One of the conditions of the auction sale provided that the final bid would