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have taken a similar stand that if in particular distress sales are avoided then it might ultimately be possible to meet some of the demands of the creditors in a proper manner.

(18) It is evident from the above that the tests laid by their Lordships in *Seth Mohan Lal and another v. Grain Chambers Ltd.*, (1), for the winding up of a Company are more than amply satisfied in the present case. I am satisfied that it is just and equitable that the Company should be wound up under section 433(f) of the Indian Companies Act, 1956 and direct accordingly.

(19) The Provisional Liquidator shall be the Liquidator of the Company aforesaid and shall forthwith take charge of all the property and effects of the same. The formal winding up order in accordance with form No. 52 of the Companies (Court) Rules, 1959, be drawn up.

N.K.S.

Before B. S. Dhillon J.

UNION OF INDIA,—Appellant.

versus

BAKHTAWAR SINGH AND ANOTHER,—Respondents.

First Appeal From Order No. 279 of 1972.

May 4, 1978.

Motor Vehicles Act (IV of 1939)—Section 110-A—Jurisdiction to entertain claims for damages to property not vested in the Tribunal on the date of accident or of filing of claim application—Such jurisdiction conferred during the trial—Tribunal—Whether can award compensation for damages to property.

Held, that where the tribunal had no jurisdiction to entertain a claim for compensation on account of the damages to property when the cause of action arose, still, if no such claim has been preferred before the Civil Court and subsequently the jurisdiction was vested in the tribunal, it came to have the jurisdiction to try the claim even though the cause of action arose when the tribunal had no jurisdiction to try the same.

(Para 7)

(1) A.I.R. 1968 S.C. 772.

First Appeal from the order of the Court of Shri S. S. Sodhi, Motor Accident Claims Tribunal, Union Territory, Chandigarh, awarding the claimants a sum of Rs. 4,100 as compensation for the injuries and loss of property suffered by them as a result of the accident and this amount shall be payable to them in equal shares and shall be in addition to any amount received by them as compensation from the criminal Court which tried the criminal case arising from this accident against the driver of the bus in question and the claim application is disposed of with no order as to costs.

U. S. Sahni, Advocate, for the appellant.

B. S. Sodhi, Advocate, for Respondent No. 1.

JUDGMENT

B. S Dhillon, J.—(1) This judgment will dispose of F.A.O. Nos. 279 and 280 of 1972 as both the appeals arise out of the one and the same order of the Motor Accident Claims Tribunal.

(2) Bakhtawar Singh and Prem Singh claimants were going on the Kharar-Chandigarh road on 7th July, 1969, at about 10.30 P.M., when bus No. CHW 80 came from behind and struck into the Gadda of the claimants. Pipes and other tubewell equipment were being carried on the Gadda. As a result of this accident, both the claimants suffered injuries as also the bullocks. Some damage was also caused to the tubewell equipment. According to the claimants, their Gadda was travelling on the left side of the road when the bus in question came from behind at a very fast speed without lights and struck into the Gadda. They thus averred that the accident took place on account of the rash and negligent driving of the driver of the bus. The claimants claimed a compensation of Rs 15,000 for injuries, mental and physical pain and Rs. 4,500 for the damages caused to their property.

(3) On the other hand, the appellant who was respondent in the claim petition pleaded that the Gadda was carrying long pipes which were lying loose on it and it was travelling in the middle of the road. When the bus was about to cross the Gadda, the bullocks got scared and suddenly turned towards the left and thus blocked the road. The bulging pipes came in front of the bus and struck against it. The accident was thus alleged to have been caused due to no fault

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of the bus driver. On the pleadings of the parties, following issues were framed:—

- (1) Whether the accident took place due to the negligence of the bus driver?
- (2) To what amount of compensation, if any, is the claimant entitled?
- (3) Whether this Tribunal has jurisdiction to award compensation with regard to property?
- (4) Relief.

(4) The learned Motor Accident Claims Tribunal held under issue No. 1 that the accident took place due to the negligence of the bus driver. Under issue No. 3, the Tribunal held that it had the jurisdiction to award compensation with regard to the property. Under issue No. 2, the Tribunal allowed a sum of Rs. 4,100 as compensation for the injuries and loss of property suffered by the claimants.

(5) The learned counsel appearing for the appellant has not assailed the finding of the Tribunal on issue No 1 and rightly. The Tribunal after appreciating the evidence rightly came to the conclusion that the bus in question was being driven without lights at the time of the accident. The Tribunal relied upon the statement of both the claimants whose testimony finds corroboration from the statement of Charan Singh, another eye-witness of the occurrence. The Tribunal came to the conclusion that R.W. 1. Charanjit Singh, Mechanic, and Janak Raj, who were produced on behalf of the respondents, were not present at the spot and thus their statements could not be relied upon. Nothing could be pointed out to show that the finding of the Tribunal on issue No. 1 has been wrongly recorded. That being the case, the finding on issue No. 1 is hereby affirmed.

(6) As regards issue No. 2, nothing could be pointed out to show that the compensation of Rs 2,000 on account of the death of the bullock Rs 100 on account of damages to the Gadda and a compensation of Rs 1,000 to each claimant in respect of injuries received by them in the accident is excessive. Accordingly, the finding of the Tribunal on issue No. 2 is also affirmed.

(7) As regards issue No. 3, the learned counsel contends that on the date of the accident and so also on the date of the filing of the claim application before the Tribunal, the Tribunal had no jurisdiction to entertain a claim for compensation on account of the damages

to the property and thus the Tribunal had no jurisdiction to award compensation as regards the damage to the bullock. This contention on the face of it appears to be attractive but when analysed deeply, the same is without any merit. It is no doubt true that the accident took place on 7th July, 1969 and the claim petition was filed on 2nd September, 1969 and at that time the Tribunal was not vested with the jurisdiction to decide about the compensation as regards the damages to the property. It was on 2nd of March, 1970 that the jurisdiction was vested in the Tribunal by effecting amendment in section 110-A of the Motor Vehicles Act, 1939. But the fact remains that the Tribunal processed the claim regarding the damage of the property which claim was made in the application and when the said claim was tried, the Tribunal had the jurisdiction to do so. The Motor Accident Claims Tribunal has rightly placed reliance on a Division Bench Decision of this Court in *Unique Motor and General Insurance Co. Ltd., Bombay v. Kartar Singh and another* (1), *M/s. V. C. K., Bus Service (P) Ltd., Coimbatore and another v. H. B. Sethna and others* (2), *Joshi Ratansi Gopaji v. The Gujrat State Road Transport Corporation and another* (3) and *Palani Ammal v. The Safe Service Ltd. and another* (4). It has been held in the above-mentioned judgments that the trial of the claim is at the most a procedural matter. Even though the Tribunal had no jurisdiction when the cause of action took place, still if no such claim has been preferred before the civil Court and subsequently the jurisdiction was vested in the Tribunal, it had the jurisdiction to try the claim even though the cause of action arose when the Tribunal had no jurisdiction to try the same. A Single Bench decision of this Court in *Mulak Raj Bhola Shah v. Northern India Goods Transport Corporation Ltd., and others* (5), was reversed by a Division Bench of this Court in *Unique Motor and General Insurance Co. Ltd. v. Kartar Singh and others* (1) supra. The contention that the period of limitation for filing the claim before the Tribunal was sixty days whereas the limitation for filing a claim before the civil Court being one year and, therefore, the accident which took place before the Tribunal was

(1) A.I.R. 1965 Pb 102.

(2) A.I.R. 1965 Madras 149.

(3) 1968 A.C.J. 338.

(4) 1968 A.C.J. 19.

(5) A.I.R. 1962 Pb. 307.

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vested with the jurisdiction could be tried by civil Court only was repelled as it was observed that the Tribunal had the jurisdiction even to extend the period of limitation in a given set of circumstances. It would thus be seen that there is no merit in the contention of the learned counsel for the appellant that the Tribunal had no jurisdiction to try the claim regarding the damages to property. The finding of the Tribunal on issue No. 3 is also affirmed.

(8) For the reasons recorded above, there is no merit in both the appeals and the same are hereby dismissed with costs.

H.S.B.

Before J. M. Tandon, J.

SADHU SINGH—*Petitioner.*

versus

SANT NARAIN SINGH AND OTHERS—*Respondents.*

Civil Revision No. 1015 of 1976.

and

Civil Misc. No. 1049/CII of 1977.

May 12, 1978.

Indian Evidence Act (1 of 1872)—Section 138—Defendant in a suit—Whether can cross-examine a co-defendant and his witnesses.

Held, that section 138 of the Evidence Act 1872 allows the right of cross-examination of a witness to an adverse party. If it appears from the pleadings of the parties that their stands are contradictory then for a just decision of the suit the defendant should be allowed to cross-examine his co-defendant. The purpose of cross-examination is to test the veracity of the testimony of a witness. Parties arrayed as defendants in a suit having taken contradictory stands on a relevant and material issue, shall be adversary to each other and, therefore, entitled to exercise the right of cross-examination against each other.

(Paras 7 and 10)

Petition Under Section 115 C.P.C. for revision of the Order of the Court of Shri N. D. Bhatara, P.C.S., Sub Judge, 1st Class, Jagraon,