

617 of the Companies Act, 1956, and, therefore, without the sanction of the Central Government their prosecution was not possible. This plea, I am afraid, cannot be entertained here at this stage for, no such question was raised before the Court below. The question being a mixed question of law, fact and jurisdiction has, in the first instance, to be raised, if at all, before the trial Magistrate. The petitioners may, if so advised, do so now.

(5) For the foregoing reasons, this petition fails and is hereby dismissed.

N.K.S.

Before J. V. Gupta, J.

NEW INDIA ASSURANCE CO.,—*Petitioner.*

*Versus*

IND KAUR AND OTHERS,—*Respondents.*

*Civil Revision, No. 933 of 1985*

September 2, 1985.

*Motor Vehicles Act (IV of 1939)—Section 92—A & B—Compensation under Section 92(A) paid to the heirs of the deceased—Subsequent award of the Tribunal granting additional compensation to the heirs—Compensation already paid under Section 92(A)—whether liable to be adjusted against the total compensation awarded.*

*Held*, that sub-section 3(a) of section 92-B of the Motor Vehicles Act, 1939, clearly provides that if the amount of the first mentioned compensation is less than the amount of the second mentioned compensation, the person liable has to pay in addition to the first mentioned compensation only so much of the second mentioned compensation as is equal to the amount by which it exceeds the first mentioned compensation. The 'Objects and Reasons' in relation to Chapter VII—A also provide that "the compensation payable by an owner on the basis of wrongful act or negligence on his part would be reduced by the compensation already paid to him under this Chapter". In this view of the matter the compensation already paid under Section 92(A) of the Act is liable to be adjusted against the total compensation payable to the heirs of the deceased.

(Paras 4 and 5).

New India Assurance Co. vs. Ind Kaur and others (J. V. Gupta, J.)

*Petition Under Article 227 of the Constitution of India read with Section 115 C.P.C. praying that in the interest of justice the order dated 19th November, 1984 be set aside, application of the petitioner be allowed and the award dated 1st June, 1984 be modified and the amount so deposited to the extent of Rs. 7,500 under Section 92-A of the Motor Vehicle Act be ordered to be returned to the petitioner.*

V. P. Gandhi, Advocate, for the petitioner.

Ajaib Singh Tung, Advocate, for Respondent Nos. 1 to 5.

#### JUDGMENT

J. V. Gupta, J.

(1) A claim petition was filed on behalf of the legal representatives of Sohan Singh deceased who died in the accident, which had taken place on 10th June, 1982. During the pendency of this petition the Motor Vehicles Act, 1939 was amended and section 92-A was added which came into force from 1st October, 1982. In view of the said provision, the learned Claims Tribunal allowed a sum of Rs. 7,500 by way of compensation on the principle of 'no fault',—vide order dated 3rd February, 1984. This amount was duly deposited by the petitioner-company i.e. New India Assurance Company. Ultimately, the claim petition was decided on 1st June, 1984 and a sum of Rs. 48,000 was awarded by way of compensation. In execution proceedings, New India Assurance Company made an application for adjustment of Rs. 7,500 from the total award made for Rs. 48,000. This application filed on behalf the New India Assurance Company was declined. Dissatisfied with the same, the Company has filed this petition in this Court.

(2) Learned counsel for the petitioner contended that on reading section 92-A and the perusal of section 92-B together, it is evident that the amount paid earlier on the principle of "no fault" under section 92-A is to be adjusted against the claim which is ultimately allowed by the Tribunal unless it is otherwise directed.

(3) After hearing the learned counsel for the parties, I find force in this contention raised on behalf of the petitioner. Section 92-B reads as under:—

"92-B. Provisions as to other right to claim compensation for death or permanent disablement:—(1) The right to claim

compensation under Section 92-A in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under Section 92-A in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under Section 92-A and also in pursuance of any right on the principle of fault, the claim for compensation under Section 92-A shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under section 92-A is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and—

(a) if the amount of the first mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition the first mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation;

(b) if the amount of the first-mentioned compensation is equal to or less than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation.”

(4) Sub-section 3(a) of section 92-B clearly provides that if the amount of the first mentioned compensation is less than the amount of the second mentioned compensation, the person liable has to pay in addition to the first mentioned compensation only so much of the second mentioned compensation as is equal to the amount by which it exceeds the first mentioned compensation. Thus the Assurance Company was to deposit the amount of Rs. 48,000 adjusting the

Mahant Lachhman Dass Chela Mahant Moti Ram vs. Shiromani  
Gurdwara Parbandhak Committee, Amritsar (S. P. Goyal, J.)

amount earlier paid by it i.e. Rs. 7,500. The submission of the counsel for the respondent that these are two different awards has thus no force.

(5) There is no gainsaying that the court can take the aid of the "Objects and Reasons" for interpreting a provision of the statute and therefore, it will be beneficial to look to the same. Therein also it has been provided that "the compensation payable by an owner on the basis of wrongful act or negligence on his part would be reduced by the compensation already paid by him under this Chapter "This Chapter" therein refers to Chapter VII-A. Section 92-A and Section 92-B are under this new Chapter VII-A. Thus on the over all view of the matter the approach of the learned Tribunal was wrong and illegal. The Company is entitled to adjust the amount already paid under section 92-A of the Motor Vehicles Act.

(6) Consequently, the petition succeeds, the impugned order is set aside and the application for adjusting the amount of Rs. 7,500 from the total award made for Rs. 48,000 is allowed with no order as to costs.

H.S.B.

FULL BENCH

Before : D. S. Tewatia, Surinder Singh and S. P. Goyal, JJ.

MAHANT LACHHMAN DASS CHELA MAHANT MOTI RAM,—  
*Appellant*

*versus*

SHIROMANI GURDWARA PARBANDHAK COMMITTEE,  
AMRITSAR,—*Respondent.*

*First Appeal from Order No. 160 of 1976*

March 7, 1986.

*Sikh Gurdwara Act (VIII of 1925)—Sections 7, 8, 9, 10 and 25A—  
Petition claiming an institution to be a Sikh Gurdwara published  
under section 7(3)—Two petitions under sections 8 and 10 filed in*