

Cr. P.C. cannot be invoked in this case to regularise the proceedings taken by the trial Court after the application under sub-section 9 of section 528 Cr. P.C. had been made. Since the ground indicated for transfer was that the learnt trial Judge had allowed undue latitude to the prosecution in the course of examination of the witness and he had conducted the proceedings in such a manner as to raise reasonable apprehension in the mind of the accused that the Court was biased in favour of the prosecution, the continuation of the proceedings after the prayer for stay in violation of the mandatory provision of law was clearly prejudicial to him. Whether or not there was any substance in the allegations made by the accused could only be determined if the trial Court had acceded to the request of the accused to adjourn the proceedings and had afforded him an opportunity to apply for transfer. The only course open to us is to quash the conviction and order *de novo* trial by a Judge other than the one from which the appellant has come up in appeal.

K.S.K.

APPELLATE CIVIL

Before R. S. Narula and C. G. Suri, JJ.

B. S. NAT,—Petitioner.

versus

BACHAN SINGH AND OTHERS,—Respondents.

First Appeal from Order No. 48 of 1964

September 2, 1970.

Motor Vehicles Act (IV of 1939)—Sections 110(1), 110A and 110F—Loss of or damage to property sustained in a motor accident—Claims for—Whether entertainable by civil Courts only—Motor Accident Tribunals—Whether have jurisdiction to adjudicate upon such claims—Interpretation of statutes—Language of a statute leading to two equivocal interpretations—Courts—Whether entitled to look to the complementary provisions in the statute to ascertain the intentions of the legislature.

Held, that Motor Accident Claims Tribunals have been set up under the Motor Vehicle Act 1939, to determine and award damages in cases of accidents involving death of or bodily injury to persons, arising out of the use of motor vehicles. In the Statement of Objects and Reasons of the Act, wherever the words "the injury or death" occur, they are used in the same

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context and are not intended to enlarge the scope of the word 'injury' in the legal sense to include injury to property as distinguished from injury to human beings or their death. The use of the word "injury" side by side with the word 'death' is a further indication that only bodily injury was within the contemplation of the law. What the law seeks to compensate is not the accident but the resultant injury. A happening or incident, however, unusual or serious would fall short of an accident if it does not lead to any injury, whether to a person or property. It is always the injury that is sought to be compensated and there is no question of an accident *per se* being compensated at law. The word 'compensation' always qualifies the injury that is sought to be compensated and there is no question of this word qualifying the type of accident. The word makes it clear that the injury sought to be compensated is bodily injury or death and this meaning is made further clear by section 110A(1) of the Act which does not provide for the entertainment of any claims in respect of damage or injury to property. Hence claims for loss of or damage to property sustained in a motor accident can be entertained only by the civil Courts and the Claims Tribunals set up under the Act have no jurisdiction to adjudicate upon such claims.

(Paras 15 and 16)

Held, that the legislature does not ever intend that its language shall convey two meanings or admit of double construction. Where the Courts, however, find that the language used by a statute is found to lead to two equivocal interpretations, they would be entitled to look to the complementary provisions in the statute to ascertain the real intentions of the legislature.

(Para 12)

Case referred by Hon'ble Mr. Justice C. G. Suri, on 4th May, 1970, to a Division Bench for decision of an important question of law involved in the case. The case was finally decided by a Division Bench consisting of Hon'ble Mr. Justice R. S. Narula, and Hon'ble Mr. Justice C. G. Suri, on 2nd September, 1970.

Regular First Appeal from the order of the Court of Shri Gurcharan Singh Dhaliwal, Subordinate Judge, 1st Class, Chandigarh, dated the 28th November, 1963, returning the plaint to the plaintiff for presentation to proper tribunal as envisaged by Order 7 Rule 11 Civil Procedure Code and leaving the parties to bear their own costs.

JOGINDER SINGH SHAHPURI, ADVOCATE, for the appellant.

MUNISHWAR PURI, ADVOCATE, for the respondents.

REFERRING ORDER

C. G. SURI, J.—A plaint in a suit filed by the appellant for the recovery of Rs. 2,000 as compensation for the loss of or damage to his car in a motor accident has been returned by the Sub-Judge at

Chandigarh under Order 7, Rule 10, Code of Civil Procedure, for presentation to the Motor Accidents Claims Tribunal (hereinafter briefly referred to as 'the Tribunal') on the finding that the Civil Courts had no jurisdiction to entertain the claim. The plaintiff has come up in appeal.

(2) On 3rd October, 1961 at about 8.45 a.m., the appellant's car No. PNP-670 collided with truck No. PNE-7759 on the road dividing sectors 18 and 19 in Chandigarh Capital. The truck belonged to defendant-respondent No. 2 and was being driven at the time of the accident by defendant-respondent No. 1. It was insured with M/s. Oriental Fire Insurance Co., defendant-respondent No. 3. The appellant not only sustained personal injuries in the accident, but his car was also damaged. The appellant filed a separate claim in respect of his personal injuries before the Tribunal and it has been stated at the bar that that claim has since been allowed. In respect of the damage to his vehicle, the appellant filed a separate claim in the civil Court under the impression that the Tribunal had no jurisdiction to entertain a claim for compensation arising out of loss of or damage to property in a motor accident.

(3) The objection with regard to the inherent jurisdiction of the Court was taken by the counsel for the defendant-respondents after the issues had been framed and evidence examined on the merits of the case. The view taken by the trial Court that an objection as to inherent jurisdiction of a Court or Tribunal can be taken by a party at any stage and that the party is not estopped from raising that plea by any amount of waiver or acquiescence, has not been challenged before me. I would, therefore, proceed to examine the question whether such a claim for compensation would lie in a civil Court or before the Tribunal appointed under section 110(1) of the Motor Vehicles Act.

(4) For facility of reference, the pertinent provisions of the Motor Vehicles Act, (4 of 1939) (hereinafter briefly referred to as 'the Act') are reproduced below :—

"Section 110(1):—A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereinafter referred to as Claims Tribunals) for such area as may be specified in the notification for the purpose of adjudicating upon claims for

compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles.

- (2) * * * *
- (3) * * * *
- (4) * * * *

Section 110A(1):—An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 110 may be made—

- (a) by the person, who has sustained the injury; or
- (b) where death has resulted from the accident, by the legal representatives of the deceased; or
- (c) by any agent duly authorised by the person injured or the legal representatives of the deceased, as the case may be.

- (2) * * * *
- (3) * * * *

Section 110F:—Where any 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 claim for compensation shall be granted by the Civil Court.”

The learned Sub-Judge has relied on a Division Bench ruling of the Madhya Pradesh High Court in *Dr. Om Prakash Mishra v. National Fire and General Insurance Co., Ltd., and others* (1), in coming to the finding that where a motor accident leads both to personal injuries and damage to property, described by the Division Bench as a case of composite injury, the entire claim would be triable by the Tribunal. The relevant portions of the ruling have been reproduced in the impugned order of the Sub-Judge and four types of cases have been contemplated. Where the accident leads to personal injuries or death, the claim was admittedly competent

(1) A.I.R. 1962 M.P. 19.

before the Tribunal. Similarly, there is no difficulty as regards a case where loss to property is the only consequence arising out of a motor accident and such a claim can clearly be entertained by the Civil Courts alone. There can be a case where loss or damage to property may be suffered, but the person suffering that loss is not given the right to make an application under section 110A of the Motor Vehicles Act. In respect of such cases also the Division Bench was of the opinion that the Civil Courts would have jurisdiction and that the application would not lie to the Tribunal appointed under the Motor Vehicles Act. Some difficulty in the interpretation of the relevant provisions of the Act was, however, presented in a case of a Motor accident resulting in composite injuries, that is to say, bodily injuries or death of the persons involved in the accident and the loss of or damage to the motor vehicle or other property. The final decision turned on the interpretation of the words "adjudication of claims for compensation in respect of accidents involving death of or bodily injury to persons arising out of the use of motor vehicles" occurring in sub-section (1) of section 110 of the Act. The Court was of the opinion that in the fourth category of cases of composite injuries, all the requirements of section 110(1) of the Act were fully satisfied. The claim was for compensation. It was in respect of an accident which involved bodily injury and had arisen out of the use of the motor vehicle. The mere fact that, in addition, compensation for damage to the car had been claimed did not, in the opinion of the Court, oust the jurisdiction of the Tribunal particularly when section 110F of the Act barred the jurisdiction of Civil Courts relating to any claims for compensation which could be adjudicated upon by the Tribunals. The contention of the appellant prevailed with the Court who observed that it could not be denied that the application claiming compensation was in respect of an accident which involved bodily injury to a person arising out of the use of motor vehicle. In addition, compensation had been claimed for the damage suffered by the vehicle. There was nothing in the language of the section which, in the opinion of the Court, debarred a Tribunal from entertaining a claim for compensation with regard to the damage to the property when other conditions of the section were also fully satisfied. The Court found absolutely nothing in the wording of the section to come to the conclusion that a claim for compensation for composite injuries in such circumstances would not be competent before the Tribunal. The word 'compensation' had not been followed in the section by anything which would restrict the scope of the award of compensation to only one of the two types

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of injuries sustained in the accident. If the intention of the Legislature had been to so confine the jurisdiction of the Tribunal, one would expect that to be plainly stated. The word 'compensation' was held to be comprehensive enough to include loss or damage to person as well as to vehicles or other property. Further on it was observed that, considering the provisions of section 110F of the Act, the general policy of law was to avoid multiplicity of proceedings and a conflict of decisions on the same point. In the opinion of the Court there was nothing in section 110 of the Act which required that a claim for compensation should be broken up into two parts triable separately in two different forums. It was, therefore, held that the claim in respect of damage to the car was also triable by the Tribunal.

The decision in *Dr. Om Prakash Mishra's* case (1), (supra) was followed in a Single Bench decision of the Gujarat High Court in *Joshi Ratansi Gopaji v. The Gujarat State Road Transport Corporation and another* (2). It was observed that the jurisdiction of the Tribunal was specified in section 110(1) which contemplated the existence of the following three conditions for determination of claims for compensation:—

- (1) the claim for compensation must be in respect of an accident ;
- (2) the accident must be one involving death or bodily injury to a person ;
- (3) it must arise out of the use of motor vehicles.

The words "involving death or bodily injury to" were held to be limitative of the accident and not of the claims for compensation. On a plain grammatical construction, the claim could be adjudicated upon by the Tribunal once it was shown that the accident involved death or bodily injury to a person which arose out of the use of motor vehicle. All kinds of claims for compensation in respect of such an accident were within the jurisdiction of the Tribunal. Section 110 was held to be of the widest amplitude in so far as claims for compensation arising out of such accidents are concerned and it was observed that there was no kind of limitation placed on the claim for compensation once death or bodily injury was shown

to have occurred in the accident. It was further observed that the limitative words in the section were only as regards the nature of the accident and that once the accident was proved to be of the specified nature, all categories of claims for compensation in respect of such accident were to go before the Tribunal and to that extent the jurisdiction of the Civil Courts was ousted under section 110F of the Act. The Court was not dealing with a case where a passenger in a vehicle was injured, but he was different from the owner of the vehicle who had a separate claim for compensation for the loss or damage to the property. It was observed that the other construction sought to be placed on section 110(1) of the Act by the appellant's counsel would lead to startling results as a person injured or the heirs of the person dying in the accident would have to split up the claim and to have to go to the Tribunal for compensation in respect of bodily injury or death and to the civil Court for compensation in respect of loss of or damage to property including the motor vehicle. Besides leading to multiplicity of proceedings, this was likely to lead to undesirable consequences and a conflict of decisions. It was observed that a construction leading to such absurd results was to be avoided. The argument of the appellant's counsel that the intention of the legislature was to confine the jurisdiction of the Tribunal to accidents involving death or bodily injury was repelled and these words were held to be descriptive of the accident alone and not of the claim for compensation itself.

(5) A contrary view has, however, been taken in a Single Bench decision of the Madras High Court in *R. Selvaraj v. Jagannathan and another* (3). That also was a case of composite injuries caused in the course of the same motor accident and it was held that the Tribunal was a Tribunal of special jurisdiction constituted to adjudicate upon claims in respect of personal injuries and death only and not in respect of loss of or damage to property. Claim in respect of property was held to be maintainable only in the civil Court. The Judge was unable to share the view of the Division Bench in *Dr. Om Prakash Mishra's* case (1), (supra), that where the claim was a composite one, part of it relating to compensation for personal injuries and the rest to the loss of property, the Tribunal would have jurisdiction over the entire matter. It was observed that the principle that where in order to give a relief it was necessary as an incidental matter to cover another subject otherwise within the exclusive jurisdiction of a different forum was applicable only to

(3) 1969 A.C.J. 1.

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civil Courts and could not be extended to special Tribunals constituted under special Acts. The reason was that the Tribunal was a creature of the statute and its jurisdiction was limited strictly by the terms of that statute. A Court or Tribunal of special jurisdiction could not be allowed to exceed its limits on any general principles of law. This jurisdiction was to be delimited strictly in terms of the statutory definition thereof. This was not so in respect of the jurisdiction of the civil Courts as these were the Courts of general jurisdiction in civil matters. The principle that was to govern was that civil Courts will have jurisdiction to try all civil matters unless its jurisdiction was barred expressly or by necessary implication.

(6) In my view the operative parts of sections 110(1) and 110A(1) have to be read and interpreted together and if there is any doubt or ambiguity in the construction of any part of one of these sections, we would not be far wrong in relying upon the language used in the operative part of the other section in order to ascertain the real intentions of the legislature. The words 'adjudication of claims for compensation in respect of motor accidents involving death of or bodily injury to' should be read as a whole and it cannot be said that the words 'involving death of or bodily injury to' are limitative only of the type of accident and not of the type of claim for compensation. If we read the operative parts of section 110(1) as a whole, the claims for compensation which would be within the jurisdiction of the Tribunal would be only claims for compensation in respect of bodily injuries or death sustained in the motor accident. There appear to be no cogent reasons why these words should be taken to qualify one part, but not the other part of the same section. Even if these words can admit of two or more vague or ambiguous interpretations, we would be fully justified in seeking guidance from section 110A(1) which may appear to be exhaustive of the categories of persons who can make claim applications to the Tribunal. In none of the three clauses of section 110A(1) is there the remotest reference to a claim for compensation due to loss of or damage to property caused in a motor accident. The clauses of this sub-section may appear to give us a clearer indication of the real intentions of the legislature than the equivocal wording of sub-section (1) of section 110. There is no reason to believe that the draftsman has been able to state the real intentions of the legislature more clearly in section 110(1) than in section 110A(1) of the Act. No amount of care or instinctive anticipation in the drafting of a piece of legislation can provide for all types of situations that may

arise in future and the vagaries of the draftsman may not come to the notice of the legislature or the Courts until an unforeseen situation offering difficulties in the interpretation of the statute has actually arisen. Amendments are made from time to time to repair and patch up the statute as and when the omissions or lacunae of the draftsman come to light. Extensive amendments have been made in sections 110 and 110A by the Motor Vehicles (Amendment) Act (No. 56 of 1969). By the amendments made in section 110(1), claims for damage to any property of a third party in such motor accidents can also be preferred before the Tribunal. To my mind, some corresponding amendments consequential on the changes made in section 110(1) should have been made in the clauses of section 110A(1) which is supposed to give an exhaustive list of the category of persons, who can file a claim application under the Act. If a third party who has suffered loss of or damage to his property including a motor vehicle is to be given the right to file a claim before the Tribunal, there should be a clause in section 110A of the Act under which that claim could have been filed by the third party, who was the owner of the property lost or damaged in the motor accident. Anyhow, the amendments made in the Act in the year 1969 should not detain us in so far as the decision of this case relating to claim for compensation arising out of a motor accident occurring in the year 1963, is concerned. The choice of forum and the presentation of the claim application are to be governed by the provisions of the Act as they prevailed at the time of the accident and the filing of the claim and the amendments made more than five or six years later would not have any retrospective effect on the case in hand.

(7) The interpretation placed on the operative parts of section 110(1) of the Act in *Dr. Om Prakash Mishra's case* (A.I.R. 1962, M.P. 19) can lead to certain illogical conclusions. If the words 'involving the death of or bodily injury to' are limitative of only the type of accident and not of the claim for compensation arising out of such accidents involving composite injuries then it may seem to be immaterial whether the person suffering loss of or damage to his property was the same person, who had suffered the personal injury or was a person different from the person sustaining the injury or death in the motor accident. If all claims for compensation in respect of such composite injuries are to be preferred to the Tribunal, then the person suffering the loss of or damage to his property whether he be the same or different from the person suffering the bodily injury shall have to file the claim before the Tribunal constituted under the Act

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and this is the only way in which the multiplicity of proceedings or conflict of decisions can be avoided. This desire to avoid the multiplicity of proceedings and conflict of decisions was given as the main argument for coming to the finding in the cases of *Dr. Om Prakash Mishra* (1), and *Joshi Ratansi Gopaji* (2), that a claim in respect of damage to or loss of property in a case of composite injury would also be within the jurisdiction of the Tribunal. If the person suffering the loss of or damage to his property is a person different from the person, who has sustained the injuries or death, then there is no clause in section 110A(1) of the Act under which a person suffering loss of or damage to his property can file his claim application. This would rather be an anomalous position.

(8) In my view the various clauses of section 110A(1) of the Act furnish a far more clearer indication of the fact that claims for loss of or damage to property sustained in a motor accident whether it led to bodily injury or not, could not be preferred to the Tribunal under the Act. The matter is, however, not free from doubt. As the question is likely to crop up in a large number of cases, it is desirable that there should be an authoritative decision on this question by a bigger Bench of this Court. No decision of this Court, reported or unreported, has been brought to my notice and there is a conflict of views amongst the other High Courts. It is desirable that there should be an authoritative decision of a bigger Bench of this Court on this subject as it would have better chances of holding the field for some time. Frequent changes in the case law on the subject may cause hardship to the claimants and may in some cases bring in the bar of limitation or of Order II, Rule 2 of the Code of Civil Procedure to deprive a person of the entire claim in respect of the loss of or damage in a motor accident to property including the motor vehicles.

(9) The case may, therefore, be placed before the Hon'ble the Chief Justice for orders with regard to the constitution of a bigger Bench so that this question of law can be authoritatively decided for the guidance of the Courts subordinate to this High Court and the conflict of views is set at rest so far as we are concerned.

ORDER OF DIVISION BENCH

C. G. SURI, J.—(10) This first appeal against the order of the Sub-Judge, Chandigarh returning a plaint for presentation to the Motor Accidents Claims Tribunal came up before me when I was

sitting alone in Single Bench. In view of a conflict of views between some other High Courts and the absence of a ruling on the point of our own, I had the case referred for the decision of a bigger Bench. That is how this appeal has come up before us.

(11) The facts of the case have been given and the available rulings discussed at length in my order of reference, dated 4th May, 1970, which may be read as a part of this judgment. I had briefly indicated in that order of reference that I was inclined to adopt the view, though not for exactly the same reasons, taken by a Single Bench of the Madras High Court in *R. Selvaraj v. Jagannathan and another* (3), even though it ran counter to the views of a Division Bench of the Madhya Pradesh High Court in *Dr. Om Parkash Mishra v. National Fire and General Insurance Co. Ltd., and others* (1), and a Single Bench of the Gujarat High Court in *Joshi Ratansi Gopaji v. The Gujarat State Road Transport Corporation and another* (2). In *R. Selvaraj's case* (3), the Court takes it for granted that the Tribunal was a Court of special jurisdiction constituted to adjudicate upon claims in respect of personal injuries and death only and not in respect of loss of or damage to property. The Court was averse to extending the jurisdiction of a special Tribunal constituted under a special Act on the ground that the jurisdiction was limited strictly by the terms of the statute. In the two rulings in which a different view had been taken by the Gujarat and Madhya Pradesh High Courts, the Hon'ble Judges had however, been of the definite opinion that all the conditions for determination of the claim for compensation by the Motor Accidents Claims Tribunal were satisfied in a case of motor accident where injuries to persons and property had been caused; described by these Courts as cases of composite injuries. If after having found that the case fell strictly within the letter of the statute, the Courts brought in aid considerations of expediency and policy by referring to the desirability of avoiding a multiplicity of proceedings or conflict of decisions, It cannot be said that the Courts were only trying to extend the jurisdiction of a special Tribunal without bringing the case within the terms of the statute constituting the special Tribunal. Expediency and policy may appear to have been brought in as additional considerations to support a view which in the opinion of the Gujarat and Madhya Pradesh High Courts was supported by a literal construction of the statutory provisions.

(12) We have to assume that the legislature does not ever intend that its language shall convey two meanings or admit of double

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construction and generally it is only the unforeseen ingenuity of the Courts or the fertility of their thought that the language used by a statute is found to lead to two equivocal interpretations. I have already expressed the opinion that in such a case the Courts would be entitled to look to the complementary provisions in the statute to ascertain the real intentions of the legislature. Sections 110(1) and 110A(1) of the Motor Vehicles Act, 1939, are complementary provisions and if certain portions of one section can lead to two equivocal interpretations, we can look to the provisions of section 110A(1), which may appear to be exhaustive of the type of claims for compensation that can be entertained by the Tribunal under the Act.

(13) The provision for the constitution of special Tribunals by the State Governments was made in the Act for the first time by the Motor Vehicles (Amendment) Act (No. 100 of 1956). The Statement of objects and reasons for making these amendments and the notes on various clauses of the bill would further enable us to ascertain the intentions of the legislature in making these amendments. Bill No. 57 of 1955, which was duly processed and enacted as Motor Vehicles (Amendment) Act, 1956 (Act No. 100 of 1956) was published in the Gazette of India, Extraordinary, dated November 12, 1955, Part II-Section 2. The statement of objects and reasons appears on pages 624 to 626 and the relevant extract is reproduced below :—

“(5) The State Governments are being empowered to set up tribunals to determine and award damages in cases of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles and also to adjudicate on the liability of the insurer in respect of payment of damages awarded. At present, a court decree has to be obtained before the obligation of an insurance company to meet claims can be enforced. The amendment is designed to remove the existing difficulty experienced by persons of limited means in preferring claims on account of injury or death caused by motor vehicles.”

(14) Further on while dealing with the various clauses of the Bill, the notes on clauses 80 and 82, which substituted section 110 and inserted certain other sections, run as follows:—

Clause 80 and 82.

Under the existing section 110, powers to appoint persons to investigate and report on motor accidents have been given.

to State Governments, but the officers so appointed are not empowered to adjudicate on the liability of the insurer or on the amount of damages to be awarded, except at the express desire of the insurance company concerned. This provision has not helped persons of limited means in preferring claims on account of injury or death, because a court decree has to be obtained before the obligation of an insurance company to meet claims can be enforced. It is, therefore, proposed to empower State Governments to appoint Motor Accidents Claims Tribunals to determine and award damages. The amendments in these clauses make the necessary provision."

(15) The opening sentence of the relevant extract from the Statement of Objects and Reasons makes it clear that the Tribunals were being set up to determine and award damages in cases of accidents involving death of or bodily injury to persons arising out of the use of motor vehicles. In later portions wherever the words "the injury or death" occur, they are apparently used in the same context and are not intended to enlarge the scope of the word 'injury' in the legal sense to include injury to property as distinguished from injury to human beings or their death. The use of the word 'injury' side by side with the word 'death' is a further indication that only bodily injury was within the contemplation of the law. Moreover, it is indicated in the statement of objects and reasons and notes on the pertinent clauses of the Bill that the amendments were designed to remove the existing difficulties experienced by persons of limited means. Claims of richer sections of the community owning motor vehicles in respect of damage to their vehicles or property were apparently not within the contemplation of the legislature.

(16) The interpretation or construction of the phrase "claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles" in section 110(1) of the Act may appear to have caused all the trouble. What the law seeks to compensate is not the accident, but the resultant injury. A happening or incident, however unusual or serious would fall short of an accident if it does not lead to any injury, whether to a person or property. It is always the injury that is sought to be compensated and there is no question of an accident *per se* being compensated at law. The word compensation generates a meaning which may seem to course through the entire length of the phrase

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reproduced above and there is no question of the impulse generated coming to an abrupt end as soon as it meets the word "accident" in the middle of the phrase. The word compensation always qualifies the injury that is sought to be compensated and there is no question of this word qualifying the type of accident. The word makes it clear to my mind that the injury sought to be compensated is bodily injury or death and this meaning is made further clear by section 130A(1) which does not provide for the entertainment of any claims in respect of damage or injury to property.

(17) I am, therefore, of the view that the plaint was wrongly returned by the trial Court for presentation to the Tribunal.

(18) The appeal deserves to succeed and the Sub-Judge Chandigarh is directed to entertain the suit and to dispose it of on merits. His order returning the plaint under Order VII, Rule 10, Code of Civil Procedure, is set aside. The defendant-respondent shall pay the appellant's costs of the litigation up to this stage. Costs for the proceedings that follow shall abide the event. Parties should appear before the Senior Sub-Judge at Chandigarh for further directions on 16th October, 1970.

R. S. NARULA, J.—I agree.

N. K. S.

APPELLATE CIVIL

Before Man Mohan Singh Gujral, J.

DR. YOGINDER PAL SONI,—Appellant.

versus

PADMA SONI,—Respondent.

First Appeal From Order No. 38-M of 1970.

September 3, 1970.

Hindu Marriage Act (XXV of 1955)—Section 24—Maintenance pendente lite payable to the wife under—Calculation of the income of the husband for—Voluntary contributions to the Provident Fund and payment of premia of insurance—Whether to be taken into consideration—Quantum of such maintenance—Whether to be one-fifth of the husband's income—Date from which the payment of maintenance is to be made—Whether of the main application or of application for such maintenance.