

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 929-930/2021
[@SLP (CIVIL) NOS.4663-4664/2021]
[@ Diary No(s). 4210/2021]

K.G. SHANTI

Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO. LTD. & ORS.

Respondent(s)

O R D E R

The Special Leave Petitions have been preferred by the judicial officer manning the Motor Accidents Claims Tribunal in respect of certain observations made personally against her in the impugned order dated 24.02.2020 by the High Court of Karnataka at Bengaluru. Insofar as the merits of the case are concerned, the endeavour of the claimants to assail the judgment has been rejected in SLP [C] Nos.8267-8268/2020 on 29.07.2020. We are thus, only called upon to look into the grievance made by the officer *qua* the observations made against her.

Leave granted.

We have heard leaned counsel for the appellant on the limited aforesaid issue.

Learned counsel has drawn our attention to the observations in paras 13 and 16 as under:

"13.....this Court is unable to understand the level

of integrity of the Presiding Officer in deliberately not observing these mistakes and proceeding to believe the bundle of lies which are stated in the complaint, which are contrary to the documents which are already on record. This conduct of the Tribunal is really baffling. Be that as it may.

xxx xxx xxx

16.....If this is the standard of the Tribunals and if this is the manner in which the Tribunal could be hoodwinked by a ground of tricksters, then there is no purpose in having Tribunals at all and it would be convenient to allow the vagabonds to file false and frivolous claims and get the same allowed at their whims and fancies. The manner in which the claim petition is decided clearly shows that there is no sense of order in conducting the claim petitions. This is shameless state of affairs. Be that as it may."

He further submits that on the one hand, such a strong observation has been made while on the other hand, the Bench while coming to the conclusion has observed in para 23 as under:

"23.....it is not surprising that when there is concerted effort by the interested witnesses and devious claimants, it is difficult for the Court to get to the bottom of the truth..."

The submission of learned counsel for the appellant is that the appellant has been condemned unheard and the observations have serious consequences so far as her judicial

career is concerned.

We are in agreement with learned counsel for the appellant that the appellant cannot be condemned unheard. We must notice at the threshold that the language used is extremely strong and the Court should be circumspect in using such language while penning down its order *qua* judicial officers. We really cannot appreciate the use of this language, whatever may have been the conduct of the appellant.

It was in any case open to the Division Bench, if it found that the impugned judgment of the Tribunal had grave errors which casts some doubt on the performance of the officer, to direct the matter to be taken on the administrative side in which case notice would have been issued to the appellant to explain her conduct and she would have got an opportunity to put forth her point of view and then it would have been open on the administrative side, if so advised to whether to take some action or not.

We may note that the aspect of remarks against subordinate judicial officers and the process for expunging such adverse remarks have formed part of more than one opinion of this Court stating that the power to expunge remarks exists for redressal of a kind of grievance for which law does not provide any other remedy in express terms though it is an extraordinary power¹.

We may also note that what we have said aforesaid on the language to be deployed has also been opined upon as the

1 'K' A Judicial Officer, *In re* (2001) 3 SCC 54.

overall test of any criticism or observations must be judicial in nature and should not formally depart from sobriety, moderation and reserve². It has been categorically laid down that there cannot be an adverse remark made against a judicial officer without first giving an opportunity to the judicial officer to explain his conduct³. In that context, in fact it has been observed that while our legal system acknowledges the fallibility of the Judges and thus, provides for appeals and revisions, the lower judicial officers mostly work under charged atmosphere and are under psychological pressure and do not have the facilities which are available in the High Court.

This, in the given facts of the case, are more so when in the impugned judgment itself it has been found that it is not surprising that when there are concerted efforts by the interested witnesses and devious claimants, it may become difficult for the Court to get to the bottom of the truth.

The result of the aforesaid is that the observations impugned in paras 13 and 16 extracted aforesaid are set aside but giving liberty to the High Court that if it really thinks that there are serious aspects arising in respect of the manner of passing of the judgment by the Tribunal, it will not preclude the High Court on the administrative side from issuing a notice to the judicial officer and taking appropriate decision after giving her an opportunity to put forth her stand.

² *State of U.P. v. Mohd. Naim* - (1964) 2 SCR 363

³ *Awani Kumar Upadhyay v. The Hon'ble High Court of Judicature at Allahabad & Ors.* - (2013) 12 SCC 392

The appeals accordingly stand disposed of.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[R. SUBHASH REDDY]

NEW DELHI;
MARCH 16, 2021.

