



FATAL ACCIDENTS AND SUCCESSION CERTIFICATE

HOW IMPORTANT the knowledge of basic principles of law could be even in ordinary administration is illustrated by the facts of a case decided by the Kerala High Court on the 19th October, 1990.¹ The case is important for those interested in the law of torts, the law of fatal accidents and the law of succession. More than that, the case shows the need to impress upon the minds of our bureaucracy the desirability of their approaching the claims of citizens from the proper legal perspective. The facts were as simple as they could be. A person from Kerala who visited a foreign country died in a motor accident in that country. Compensation for his death was realised on behalf of his father and other relatives by the Indian Embassy in the foreign country on the basis of a power of attorney executed by the father and other relatives (who were the claimants). The amount so realised by the Embassy was remitted to the district collector for passing on those who had executed the power of attorney. But the District Collector, instead of carrying out the mandate implied in the power of attorney, insisted on the production of a succession certificate. The claimants had no other alternative but to approach the High Court for suitable relief. The High Court held that the claim was not by the father and other relatives as heirs, but the claim was by them on their own account. The High Court made the following important observations :

It is compensation for loss caused to them by the death of the deceased, secured to them as a statutory right under section 1A of the Fatal Accidents Act.

It may be mentioned that a similar view had been taken by the same High Court in a division bench ruling.

The attitude shown by the District Collector in this case shows a total misconception of the role of the authorities who are entrusted with the function of disbursing such amounts. The case was nothing but of one agency, superimposed upon another. The Indian Embassy was entrusted with the task of realising the amount as an agent. Having realised the amount, that Embassy, in its turn sent it to the Collector of the District who was in effect nothing but an agent of the Indian Embassy. It may be that he became a trustee also, but that should have made no difference at all. The father and other relatives were the persons to whom the amount belonged and it is difficult to see how their agent and sub-agent could insist on their producing this or that document.

1. *C. Chellappan v. Union of India*, (1991) *Acc. C. J.* 170.

2. *K. Lakshmi v. Chairman, Kerala State Road Transport Corporation*, (1984) *Acc. C.J.* 79.



Even if there was no agency, the demand for succession certificate in the circumstances of the case was totally misconceived. If the District Collector had taken the trouble of looking at section 214 of the Indian Succession Act, 1925, he would have come to know that by and large that section is concerned with the "debt" due to the deceased, the amount of which debts claimed to have devolved *by succession*. Compensation to the relative of a person killed in an accident is not by reason of succession but by reason of the statutory right given to him by legislation relating to fatal accidents as in force in various countries. It is not a pre-existing claim due to the deceased which is transmitted to the claimant. Rather, it is a claim which arises only by reason of the death which (as per the usual language of such legislation) occurred by reason of the wrongful act, neglect or default of the wrongdoer. In other words, the claimant claiming such compensation does not seek to recover a debt which was already existing. He is claiming payment of a demand which arises in his favour (along with other co-claimants) and thus he is claiming an enforcement of his own independent right. Death constitutes only the occasion for the claim arising, of course coupled with other circumstances which create the statutory liability. The common law gave no cause of action for harm suffered in the shape of the death of the breadwinner and gave no relief for the monetary misery which the relative of a deceased person would suffer by reason of such death, however serious the economic loss may be. Statute intervened as early as the fifties of the last century and created a cause of action in favour of the specified relatives. This has nothing to do with the law of succession. In fact, even persons who are practically out of the scope of the Indian Succession Act, 1925 (for example, Muslims) can still claim the benefits given by fatal accidents legislation. This shows that a succession certificate has nothing to do with a claim under fatal accidents legislation. It is unfortunate that no one thought of consulting the Government Pleader of the District and ascertaining the true legal position in this regard. More than 20 years ago, in 1970, the Kerala High Court had stressed the need for imparting some knowledge of law to administrative officers. Those observations were made in the context of administrative law. The present case shows the need for a proper legal approach in regard to other topics of a legal nature. Objections such as those raised by the District Collector in the present case undoubtedly cause avoidable irritation to the citizens. It may be that ultimately the citizens are (fortunately) able to approach the higher judiciary for appropriate relief. But every person cannot afford the expense of time and money that such litigation must involve.

It should be mentioned that a similar inconvenience was felt by those who were entitled to claim the amount of a life insurance policy by virtue of a nomination made in their favour. The position is now settled in this regard and in fact has been well settled, so far as the language of the statute goes, for at least half a century. Nevertheless, even in the seventies of the present century, the law reports used to record instances in which a



nominee was required to produce a succession certificate. In fact, even after the nomination system was introduced in bank accounts, many officers of banks had only a dim awareness of the relevant statutory provision and some of the banks did not even care to secure for the use of their customers adequate number of forms prescribed for the purpose. All this shows, how well-meant beneficial legislation does not find expression in actual practice. One reason may be that our legislative-cum-administrative apparatus has not been geared up to address itself to the need for giving adequate publicity, not only to legislation which has been enacted, but also to legislation which is under consideration. Such publicity can at least inspire, in those concerned, a desire to make themselves familiar with the substance of the new legislation when enacted.

The point raised in this comment and several other points regarding succession certificates have been considered at length by the Law Commission of India.³

*P.M. Bakshi**

3. Law Commission of India, *One Hundred and Tenth Report on The Indian Succession Act 1925*, 179-194 (1985).

*Member, Law Commission of India, New Delhi,