

Jagdish Vs. Deependra @ Deepak Yadab Judgement Given By: Hon'ble Shri Justice Sanjay Yadav

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Court : Madhya Pradesh

Decided On : Jan-07-2014

Appellant : Jagdish

Respondent : Deependra @ Deepak Yadab Judgement Given By: Hon'ble Shri Justice Sanjay Yadav

Advocate for Def. : Shri. V.K.Dubey, Shri. T.S.Lamba

Advocate for Pet/Ap. : Shri. V.K.Mishra

Judgement :

Writ Petition No.14261/2013.

7.1.2014.

Shri V.K.Mishra, learned counsel for the petitioner.

Shri V.K.Dubey, learned counsel for respondent no.1.

Shri T.S.Lamba, learned counsel for respondent no.3.

With consent, matter is heard finally.

This petition, under Article 227 of the Constitution of India, is directed against the order-dated 4.7.2013; whereby, Additional Motor Accident Claims Tribunal, Maihar Distt.

Satna (for short 'the Tribunal') has rejected the application preferred by the petitioner to examine the doctor on commission.

Claim case preferred by the petitioner is in respect of injuries sustained in a motor-vehicle accident on 2.12.2010 caused by the offending vehicle Bolero Jeep No.MP-20-VA-0681 at Village Ghunwara Tahsil Maihar District Satna.

For the injuries sustained by petitioner, he was treated by one Dr.

Naveen Kothari.

Petitioner applied for examination of Dr.

Naveen Kothari on commission.

The application was allowed; however, on the date i.e.28.4.2013, when the doctor was to be examined, petitioner did not appear.

The petitioner sought one more opportunity to examine the doctor on commission; however, the Tribunal, by impugned order, rejected the same on the ground that the petitioner having grant of opportunity did not avail the same.

It is gathered from the impugned order that Dr.

Naveen Kothari, who was to be examined on commission, is a resident of Jabalpur whereas the case is tried at Satna and the petitioner had to depend on his counsel, who was to examine the doctor on commission.

:: 2 : Writ Petition No.14261/2013 Apparently, it is the counsel who could not reach in time.

As a result whereof, the doctor was not examined.

For such a mistake of the counsel, the petitioner-claimant should not be made to suffer.

In the considered opinion of this Court, the Tribunal ought to have granted one more opportunity to the petitioner-claimant, at the cost of petitioner.

In view whereof, the impugned order-dated 4.7.2013 (supra) is set aside and the trial Court is directed to afford one more opportunity to the petitioner to examine Dr.

Naveen Kothari on commission on the terms and conditions set out by the Tribunal.

It is made clear that if the petitioner still fails to examine Dr.

Naveen Kothari on commission, no further opportunity shall be granted to him.

Petition is allowed to the extent above.

No costs.

Certified copy as per rules.

(SANJAY YADAV) JUDGE vinod

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