

Pawan Kumar Vs. Manorama Bai Judgement Given By: Hon'ble Shri Justice Keshav Kumar Trivedi

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Court : Madhya Pradesh

Decided On : Feb-21-2014

Appellant : Pawan Kumar

Respondent : Manorama Bai Judgement Given By: Hon'ble Shri Justice Keshav Kumar Trivedi

Advocate for Def. : Smt. Devika Singh, Shri. Gulab Sohane

Advocate for Pet/Ap. : Shri. Abhay Jain

Judgement :

M.A.No.3874/2010 21.02.2014 Shri Abhay Jain, learned counsel for the appellant.

Smt.

Devika Singh, learned counsel for the respondent No.3.

Shri Gulab Sohane, learned counsel for the respondent No.4.

This appeal is barred by 818 days and an application for condonation of delay is filed by the appellant.

Despite service of notice of I.A.No.10560/10, an application for condonation of delay in filing the appeal only the Insurance Company has filed the reply opposing

such a claim for condonation of delay made by the appellant.

The reason assigned for delay in filing the appeal is that the appellant was not aware of the award passed against him.

He came to know about this fact only when the notice of recovery was served on him.

The reply of the respondent-Insurance Company to this I.A. is only this much that the appeal filed by the owner of the vehicle has already been dismissed against the very same award by this Court and, therefore, such an enormous delay of 818 days is not required to be condoned.

However, considering the fact that the appellant was not aware of passing of award against him and this fact is not denied in appropriate manner, the delay in filing the appeal is condoned.

I.A. stands allowed and disposed.

Heard on the question of admission.

Appeal is admitted for final hearing.

No notice of this appeal is required to be issued to the respondents as they are served and represented.

Let a copy of memo of appeal and I.A.No.10368/10, an application for grant of stay be delivered to learned counsel for the respondents and an acknowledgment to this effect be filed in the Registry.

It is contended by learned counsel for the appellant that an amount of Rs.25,000/- has been deposited towards the award.

Since the pillion rider was also covered as third party in the Insurance Policy, liability is required to be fixed on the Insurance Company.

Considering the aforesaid, it is directed that on further deposit of Rs.25,000/- within a month from today, remaining amount of award will not be recovered from

the appellant only.

However, the recovery proceeding may go on against the owner of the vehicle.

Certified copy as per rules.

(K.K.Trivedi) Judge b

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