

A. Devi Vs. Ch. Janaki and ors.

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Court : Andhra Pradesh

Decided On : Oct-09-2002

Reported in : 2003(1)ALT44

Judge : Ghulam Mohammed, J.

Acts : Motor Vehicles Act; [Limitation Act, 1963](#) - Sections 5

Appeal No. : C.R.P. No. 5968 of 2001

Appellant : A. Devi

Respondent : Ch. Janaki and ors.

Advocate for Def. : Ravi Shankar Jandhyala, Adv. for Respondent No. 2

Advocate for Pet/Ap. : K. Rathangapani Reddy, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Ghulam Mohammed, J.

1. This revision is directed against an order dated 21-8-2001 passed by the learned Motor Accidents Claims Tribunal-cum-II Additional District Court, Kurnool in I.A.No. 556 of 2000 in O.P.No. 334 of 1996.

2. The petitioner is a widow. Her husband died in an accident due to the rash and negligent driving of the driver of the vehicle. Therefore, the petitioner herein approached the Tribunal to award just compensation under the provisions of the Motor Vehicles Act by filing MVOP No. 334 of 1996, but the said petition was dismissed for default. Then she filed a petition to set aside the said dismissal order and since there was a delay of 732 days in filing the said petition, she filed I.A. No. 556 of 2000 Under Section 5 of the Limitation Act to condone the said delay of 732 days. The reason assigned was that due to mistake and oversight she has not filed the petition in time. The trial Court held the delay has not been properly explained in the affidavit and therefore declined to condone the delay and accordingly dismissed the said application. Aggrieved by the said order, this revision is preferred.

3. Learned counsel for the petitioner vehemently contended that the Motor Vehicles Act itself is a beneficial legislation, and therefore the petition filed for condoning the delay in filing the petition for setting aside the default order ought to have been considered liberally.

4. However, the learned counsel for the respondents contended that there was inordinate delay and the said delay was not properly explained and therefore the Court below exercising the discretion vested in it has rightly declined to entertain the application.

5. Having heard the learned counsel for both the parties and having regard to the facts and circumstances of the case, I am of the considered view that as it is a case of death of the husband of the petitioner and as M.V. Act is a beneficial legislation, the Court below should have liberally construed the matter and condoned the delay. Instead, the trial Court dismissed the application merely on the ground that the delay has not been properly explained.

6. Considering the facts and circumstances, the delay is condoned and the order passed by the lower Court dismissing the M.V.O.P. for default is set aside and the said O.P. is restored to file. The Court below is directed to dispose of the O.P. expeditiously within a period of four months from the date of receipt of a copy of this order by determining the compensation in accordance with law.

7. The C.R.P. is allowed accordingly.

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