

Subhash Chandra Solanki Vs. Motor Accident Claims Tribunal/iiird A.D.J. and ors.

Subhash Chandra Solanki Vs. Motor Accident Claims Tribunal/iiird A.D.J. and ors.

SooperKanoon Citation : sooperkanoon.com/492908

Court : Allahabad

Decided On : Apr-21-2003

Reported in : III(2003)ACC252

Judge : Anjani Kumar, J.

Appellant : Subhash Chandra Solanki

Respondent : Motor Accident Claims Tribunal/iiird A.D.J. and ors.

Judgement :

Anjani Kumar, J.

1. Heard learned Counsel appearing on behalf of the petitioner and the learned Standing Counsel for the contesting respondent.
2. The petitioner, by means of present writ petition under Article 226 of the Constitution of India, has challenged the order whereby the application moved on behalf of the petitioner to set aside the ex parte award has been rejected by the Motor Accident Claims Tribunal/IIIrd Additional District Judge, Etah. Learned Counsel for the petitioner has stated in paragraph Nos. 9, 10 and 16 of the writ petition that no objection was endorsed in the application for setting aside ex parte award when the copy was served on Counsel for opposite party. This fact has not

been denied in counter affidavit filed on behalf of the respondents. In this view of the matter, the order dated 7th October, 1993 rejecting the application under Order 9 Rule 13, Code of Civil Procedure dated 22nd September, 1993 deserves to be set aside. Since no useful purpose will be served by remanding the matter only for deciding the application under Order 9 Rule 13, Code of Civil Procedure, the ex parte award dated 19th November, 1992 deserves to be set aside.

3. In view of what has been stated above, this writ petition succeeds and is allowed. The order dated 7th October, 1993 rejecting the application under Order 9 Rule 13, Code of Civil Procedure dated 22nd September, 1993 is set aside and the ex parte award dated 19th November, 1992 is also set aside. No useful purpose will be served by sending back it to the Tribunal again, the Tribunal is directed to decide the matter on merits expeditiously, preferably within a period of six months from the date of presentation of a certified copy of this order before the Tribunal. However, in the facts and circumstances of the case, the parties shall bear their own costs.