

Bhurla Vs. Makingir and ors.

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Court : Madhya Pradesh

Decided On : Jul-26-2005

Reported in : I(2006)ACC183; 2007ACJ457

Judge : N.K. Mody, J.

Appellant : Bhurla

Respondent : Makingir and ors.

Judgement :

N.K. Mody, J.

1. Being aggrieved by the award dated 9.9.2000 passed by Motor Accidents Claims Tribunal, Alirajpur, District Jhabua in Claim Case No. 135 of 2000 whereby the claim petition was dismissed, the present appeal has been filed.

2. Short facts of the case are that Bhurli was mother of the appellant sustained injuries in an accident has filed the claim petition which was initially numbered as 135 of 2000. During the pendency of the claim petition Bhurli died and the claim petition was prosecuted by her son, who is the present appellant and was taken on record.

3. That case was contested by respondent. The allegations were denied. During the pendency of the case on the basis of pleadings the learned Tribunal framed

the issues and fixed the case for evidence on 6.9.2000. On this date the appellant was not present. The case was adjourned for 7.9.2000, on that date the appellant moved an application for taking his evidence. But the learned Tribunal further fixed the case for evidence on 8.9.2000. On that date the appellant moved an application along with a prayer for recording of his evidence but learned Tribunal dismissed the application and after hearing the arguments the claim petition was dismissed as the allegations made in the claim petition were found not proved.

4. Learned Counsel for the appellant submits that appellant is a poor person and illiterate also. It is submitted that the appellant appeared before the learned Tribunal a day before the fixed date and moved the application for recording the evidence of the appellant which was wrongly rejected. Learned Counsel for the appellant placed reliance on a case reported in Mahendra Rathore v. Omkar Singh 2001 ACJ 1436 (SC), wherein in a claim case the Hon'ble Apex Court has observed that:

(4) ...In such matters a justice oriented approach and not a too technical or a pedantic approach is expected to be adopted by the courts more so when the application sought to be restored for hearing was a claim case arising out of a motor accident. Refusal on the part of Tribunal to restore the claim petition, as also on the part of High Court to show indulgence to the appellant has occasioned failure of justice.

5. I have perused the record, the learned Tribunal was of the view that a number of opportunities were given and since last time was given, therefore, the appellant's application was dismissed as there was no occasion to give further time. There is no army rule which is applicable for disposal of the civil cases. When the appellant was present before conclusion of the case, then learned Tribunal ought to have recorded the statement of the appellant for finally adjudicating the matter.

6. In view of this, the impugned award is hereby set aside. The case is sent back to the Tribunal to record the evidence of the parties and conclude the same at the earliest possible preferably within a period of six months. Since the matter is old one, therefore, parties are directed to remain present before the Tribunal on

29.8.2005.

7. With the aforesaid observations this appeal stands disposed of.

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