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Court : Madhya Pradesh

Decided On : Mar-27-2000

Reported in : 2(2000)ACC781

Judge : V.K. Agarwal, J.

Appellant : BhaktIn Bai and ors.

Respondent : Jarnail Singh and ors.

Judgement :
ORDER

V.K. Agarwal, J.

1. This appeal is directed against the order dated 12.5.1997 in Claim Case No. 1/4 by IInd Additional Motor Claims Tribunal, Rajnandgaon, whereby the application for adjournment filed on behalf of the appellants/claimants was dismissed, so also the claim petition itself.

2. It appears that the appellants/claimants have filed an application under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of death of Ramesh Kumar in a motor accident arising out of collision of two trucks. The appellants/claimants adduced some evidence, but on a subsequent opportunity and hearing for adducing further evidence, the appellants were absent. Their Counsel filed an application for adjournment as well as an opportunity to lead

additional evidence. That application was dismissed by the impugned order and consequently the claim petition was also dismissed.

3. Learned Counsel for appellants has mainly urged that, even if the prayer and application for adjournment filed by the appellants/claimants did not find favour with the Tribunal, since the appellants had adduced substantial evidence, their claim petition should have been decided on the basis of the evidence already led by them. It has further been submitted that the appellants were illiterate and poor persons and have not been in a position to adduce further evidence. It has, therefore, been urged that though several opportunities have been granted to adduce evidence, but it is submitted that if one more opportunity is granted to the appellants they would be able to substantiate their claim.

4. Learned Counsel for the respondent No. 2 stated that in case the appellants are granted opportunity to adduce evidence, the respondent should be permitted to lead evidence in rebuttal. Counsel for both the parties agreed that they would be keeping their witnesses present on the date fixed by the Tribunal in that regard.

5. After considering the contentions as above, it appears that the appellants/claimants had already adduced evidence in the case. In the circumstances the Tribunal was not justified in dismissing the claim petition without consideration of the evidence already placed on record by the appellants, merely because it did not find it proper to allow the application for adjournment. The claimants/appellants, therefore, deserve hearing in the matter. The matter deserves to be remanded for decision on merits. It also appears just and proper to grant one more opportunity to the appellants/claimants to adduce such additional evidence as they may choose. However, they shall not be afforded another opportunity, if they fail to do so.

6. Accordingly, the appeal is allowed. The impugned award is set aside. The case is remanded to the Tribunal for decision afresh in the light of above observations. It is directed that the appellants as well as the respondents shall be afforded one more opportunity to adduce evidence. They shall themselves be responsible for keeping the evidence ready on a date to be fixed by the Tribunal in that regard and shall not be entitled to any further opportunity in the above regard. The evidence

already led by the appellants shall be treated as their evidence. The Tribunal shall after affording an opportunity to the parties as above and after hearing them, shall decide the petition afresh and pass a fresh award on merits.

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