

Dev Karan Vs. Suresh Kumar and ors.

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SooperKanoon Citation : sooperkanoon.com/512092

Court : Madhya Pradesh

Decided On : Aug-08-2005

Reported in : III(2006)ACC94; 2006(1)MPLJ288

Judge : N.K. Mody, J.

Appellant : Dev Karan

Respondent : Suresh Kumar and ors.

Judgement :

ORDER

N.K. Mody, J.

1. Being aggrieved by the award dated 20.12.2002 passed by MACT, Indore in Claim Case No. 10/2002, whereby claim petition filed by the appellant has been dismissed, the present appeal has been filed.

2. Short facts of the case are that the appellant filed claim petition alleging that on 13.2.1991, an accident took place in which appellant sustained permanent injuries. The claim petition was registered as 10/2002. The allegations were made in the petition denied by the respondents. It was also alleged that since the accident has taken place on 13.2.1991 and claim petition is filed on 6.2.2002, therefore, the claim petition was not maintainable. It was also prayed that petition be dismissed on account of non-maintainability. On the basis of the pleadings by the parties

learned Tribunal framed the issues. Issue No. 4 was to the effect that whether the claim filed after 11 years is not maintainable. After hearing the parties the learned Tribunal has held that claim petition has been filed after the amendment in the Motor Vehicles Act, 1994, and since the accident has taken place prior to amendment of the Act, therefore, the claim petition is not maintainable.

3. Learned Counsel for the appellant submits that accident took place on 13.2.1991, and at the time of accident the Motor Vehicles Act, 1988 was in force. According to Section 66 of the Motor Vehicles Act the claim petition was filed within six months from the date of accident or within a period of 12 months, after showing the sufficient ground for delay in filing the application. It was submitted that in the year 1994 Section 166 of Motor Vehicles Act has been amended and application for compensation can be filed at any time. It is submitted that in the case of Dhannalal v. D.P. Vijayvargiya reported in I (1996) ACC 603 (SC) : I (1996) ACC 603 (SC) : 1996 JLJ 528, wherein the Hon'ble Apex Court observed that the effect of the amending act is that with effect from 14.11.1994, there is no limitation for filing claims before the Tribunal in respect of any accident.

4. In view of the law laid down by Hon'ble Apex Court the appeal is allowed. The impugned order dated 20.12.2002 is hereby set aside passed in Claim Case No. 10/2002. Parties are directed to remain present before the Tribunal on 15.9.2005. Record of the Tribunal be sent back immediately. Learned Tribunal is directed to dispose of the case afresh at the earliest possible.