

Shantilal Vs. Azad Kumar and ors.

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SooperKanoon Citation : sooperkanoon.com/512362

Court : Madhya Pradesh

Decided On : Jul-13-2001

Reported in : III(2002)ACC628

Judge : J.G. Chitre and A.M. Sapre, JJ.

Appellant : Shantilal

Respondent : Azad Kumar and ors.

Advocate for Def. : Mr. S.V. Dandwate

Advocate for Pet/Ap. : Mr. S.S. Kemkar

Judgement :

A.M. Sapre, J.

1. Claimant is in appeal against the rejection of his claim petition filed for claiming compensation under the Motor Vehicles Act arising out of an accident. The learned Member of M.A.C.T. rejected the claim petition on the ground of limitation, as in his opinion, the same having been filed beyond the prescribed period of limitation, it is liable to be dismissed. It was accordingly dismissed. The cause pleaded by the claimant did not appeal to learned Member.

2. Heard Mr. S.S. Kemkar, learned Counsel for the appellant and Mr. S.V. Dandwate, learned Counsel for respondent No. 3.

3. Despite vehement opposition from the respondent to oppose this appeal and contending that appeal be not allowed and delay be not condoned, we are of the view that the appeal deserves to be allowed thereby setting aside of the impugned order dismissing the claim petition, as barred by limitation.

4. True it is, that when the accident occurred in this case on 20.5.1990, the Act did provide for limitation and hence, it governed the limitation for filing the claim petition. Equally true is, by amendment the rigour of limitation was lifted making the Act more liberal keeping in view its benevolent provisions and object. However, in our opinion, though the delay is of five years and few months yet, in a case of accident and looking to the illiteracy of claimant and ignorance of such provisions, the claim petition ought to have been entertained on merits for its disposal.

5. In a case where the compensation for death is claimed, a lenient view has to be taken to enable the aggrieved to prosecute their claims on merits and claim benefit of Act. The subtle observations of Their Lordships of Supreme Court while interpreting Section 5, Limitation Act in giving to it a liberal approach towards the litigation support our conclusion. We, therefore, condone the delay in filing claim petition holding that sufficient cause is made out.

6. We are, therefore, inclined to set aside the impugned order dated 6.8.1996, passed by IInd M.A.C.T., Neemuch, in Claim Case No. MACC 0/1996 and remand the case for its disposal on merits.

7. Accordingly, appeal is allowed, impugned order is set aside and case i.e. Claim Case No. MACC 0/1996 is remanded to IInd M.A.C.T., Neemuch for its disposal on merits. Let the matter be disposed of on its merits within six months from the date of production of this order by the appellant. Record, if requisitioned, be sent back forthwith.