

Ashok Kumar Gaur and ors. Vs. the M.A.C.T. and anr.

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SooperKanoon Citation : sooperkanoon.com/762951

Court : Rajasthan

Decided On : Jul-17-2003

Reported in : RLW2004(1)Raj185; 2003(4)WLC742

Judge : Ashok Parihar, J.

Acts : [Motor Vehicles Act, 1988](#); [Limitation Act, 1963](#) - Sections 5; [Constitution of India](#) - Articles 226 and 227

Appeal No. : S.B. Civil Writ Petition No. 4850 of 2000

Appellant : Ashok Kumar Gaur and ors.

Respondent : The M.A.C.T. and anr.

Advocate for Def. : Shailesh Prakash Sharma

Advocate for Pet/Ap. : Sanjay Mehrishi, Adv.

Disposition : Petition dismissed

Judgement :

Parihar, J.

1. In a claim petition filed before the Motor Accident Claims Tribunal, Kota, ex parte proceedings were drawn against the petitioners on 29.11.1995. Thereafter, an award was passed by the Tribunal on 4.6.1999 thereby allowing a claim of Rs.

2 lacs in favour of the respondent-claimant.

(2). An application for setting aside ex parte award was filed before the Tribunal on 25.8.2000 along with an application under Section 5 of the Limitation Act for condoning the delay. Both the applications were dismissed by the Tribunal vide order dated 29.9.2000. Hence, the present writ petition, challenging not only the award dated 4.6.1999 but also the order dated 29.9.2000.

(3). After hearing counsel for the parties, I have carefully gone through the material on record as also the impugned award and the order.

(4). The Tribunal, while rejecting the application for setting aside ex parte proceedings, has given detailed reasons for not accepting the application under Section 5 of the Limitation Act as also for restoration. The reasons given by the petitioners for not appearing before the Tribunal are also contradictory and do not gather any confidence of even this court. After having considered entire facts and circumstances of the present case, I find no ground for any further interference of this court in the present writ petition. Even otherwise, as per recent judgment of Supreme Court in case of 'Sadhana Lodh v. National Insurance Co. Ltd. and Anr. (1)' Transport and Accidents Cases page 26), writ petitions under Article 226/227 of the Constitution are not maintainable in such matters. Accordingly, the writ petition is dismissed as having no merit.