

Chand Mohd. Vs. Gend Mal

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SooperKanoon Citation : sooperkanoon.com/767312

Court : Rajasthan

Decided On : Nov-11-1986

Reported in : 1987WLN(UC)736

Judge : Jagdish Sharan Verma, C.J. and; Kishore Singh Lodha, J.

Appeal No. : D.B. Civil Special Appeal No. 53 of 1986

Appellant : Chand Mohd.

Respondent : Gend Mal

Disposition : Appeal dismissed

Judgement :

Kishor Singh Lodha, J.

1. An application for compensation, arising out of a Motor accident, was filed before the Tribunal Under Section 110-A of the Motor Vehicles Act. During the pendency of that application, the claimants also filed an application for award of compensation Under Section 92-A on the principle of no fault enacted therein.

2. The Motor accident, giving rise to the claim, took place on 8-12-1982. The application Under Section 92-A was filed on 2-11-1985 during the pendency of the claim petition as earlier stated. An objection was raised on the ground of limitation, contending that the application Under Section 92-A was time barred since it was

not filed within six months of the occurrence of the accident. This contention was based on the arguments that the limitation of six months prescribed in Sub. Section (3) of Section 110-A for a claim application made under Sub-section (1) thereof, was also applicable to an application Under Section 92-A on the principle of no fault. This argument was rejected by the Tribunal and thereafter also by a learned Single Judge of this Court. The same argument is advanced in support of this appeal.

3. Learned Counsel for the appellants strenuously urged that the proviso to Sub-section (2) of Section 110-A indicates that an application for compensation on the principle of no fault, Under Section 92-A, is in the nature of a substantive application, to which the same period of limitation of six months, prescribed in Sub-section (3) of Section 110-A, must apply. On this basis, it was urged that the application Under Section 92-A having been made after the expiry of six months from the date of the accident, it was time barred, notwithstanding the fact that it was made in the claim petition itself and not separately as a substantive application. We are unable to accept this contention.

4. In a case like the above, where the substantive claim application for compensation under Sub-section (1) of Section 110-A, was filed within time, and was pending, an application made therein for compensation on the principle of no fault under Section 9-A, pending adjudication of the main claim application, is not governed by any independent period of limitation. We are unable to read the proviso in Sub-section (2) and Sub-section (3) of Section 110-A of the Motor Vehicles Act, in the manner suggested by the learned Counsel for the appellant. Accordingly, in this case, no question of limitation arose in respect of the application, filed under Section 92-A, during the pendency of the main application under Sub-section (1) of Section 110-A. This being sufficient to dispose of the objection of limitation raised in the present case, it is not necessary to examine this question any further.

5. Consequently, the appeal fails and is dismissed.

6. No costs.

