

IN THE HIGH COURT OF DELHI AT NEW DELHI

MAC APP No. 326/2007

Judgment delivered on: February 26, 2008

Hukum singh Appellant.

Through: Mr.K.K. Joshi, Adv.

versus

Shri Avdesh Singh & Ors. Respondents

Through: Ms. Manjusha Wadhwa, Adv. for
Respondent no.3

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR,

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| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to Reporter or not? | Yes |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

KAILASH GAMBHIR, J. Oral:

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By way of the present appeal, the appellant seeks to challenge the impugned award dated 4.5.2007, whereby the claim petition filed by the appellant was dismissed.

The short issue involved in the present case is as to whether the order of the Tribunal dismissing the claim petition filed by the appellant can be justified simply because the appellant had failed to adduce his evidence even after taking three dates in this regard. Counsel for the appellant contends that the appellant could not adduce the evidence before the Tribunal as he had applied to obtain certified copy of the criminal court record, but the same were not made available by the Copying agency of the Distt. & Sessions Judge. Counsel therefore, contends that there were bona fide reasons for not adducing the evidence before the Tribunal.

On the other hand, Ms. Manjusha Wadhwa counsel for the respondent no.3 contends that no advantage should be given to the appellant for his own lapses as despite three opportunities granted by the Tribunal, the appellant had failed to lead any evidence. Counsel for the respondent further submits that appellant at least could have adduced his own evidence by way of filing an affidavit and also could have taken steps to summon criminal court record.

I have heard learned counsel for the parties and have perused the record.

The case was listed before the Tribunal on 4.5.2007 for the evidence of the appellant, but since no witness was present, therefore, the Tribunal after taking into account the past conduct of the appellant dismissed the claim petition filed by the appellant. The Tribunal has observed that the case was listed for the evidence of the petitioner/appellant for the first time on 25.4.2006 and on that day no witness was present, therefore, the matter was adjourned for 3.11.2006. On 3.11.2006 again no witness was present and the Tribunal adjourned the matter for 4.5.2007 as last and final opportunity. On that date also, appellant did not take any steps to adduce evidence or summon any other witness as a result of which the Tribunal had dismissed the claim petition.

Indisputably, it is an unfortunate situation that the claim petitions filed by the claimants invariably gets delayed either at the service stage or at the evidence stage due to fault of the either counsel representing the claimants or claimants themselves. This unnecessary delay which takes place adversely affects the insurance companies as they are made liable to pay the interest even for the period of delay caused in the matter due to the sole negligence of the claimants or their counsel. Such delay also affects the claimants themselves as the final disposal of the case gets delayed and they get

deprived of the award amount at an early stage. In such scenario, the lawyers representing the claimants owe a special responsibility not only legal but moral also to take prompt and urgent steps at the service stage and then at the evidence stage so that agony of the victims of the accidents and dependent members is not prolonged. This would not only help speedy disposal of the cases fixed before the Tribunal but would also be beneficial to the claimants who will be able to get the compensation amount with promptness.

In the light of the above discussion, I do not find any justification on the part of the Tribunal in dismissing the claim petition for the negligent conduct of the counsel representing the claimants for not taking timely steps to summon the witnesses or file necessary affidavits. At the most the Tribunal could have deprived the petitioner from the grant of interest for the period for which the negligence is attributed to the claimants, instead of shutting the case itself. Time and again it has been reminded that the Motor Vehicles Act is a beneficial piece of legislation and therefore, MACT Courts should deal with the cases of the victims with compassion and humane approach not in such a hush-hush and rash manner as has been done by the Tribunal in the present case.

In view of the above discussion, the matter is remanded back to the Tribunal. The Tribunal shall give fresh opportunity to the appellant/claimant to adduce his evidence. The appellant shall complete his entire evidence within three dates to be given by the Tribunal. Since long delay has taken place due to own lapses of the appellant, therefore, at the time of passing of the final award, the Tribunal shall not award any interest on the compensation amount w.e.f. 25.4.2006 to 4.5.2007.

The parties are directed to appear before the Tribunal on 2.4.2008.

With these directions, appeal stands disposed of.

February 26, 2008
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KAILASH GAMBHIR, J