IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1190 OF 2002 (O&M)
DATE OF DECISION : 21st AUGUST, 2015

Punjab State & another

…. Appellants

Versus

Charan Singh & others

…. Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. L. C. Aggarwal, AAG Punjab for the appellant.

Mr. Jastej Singh, Advocate for respondents No.1 and 2.

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SURINDER GUPTA, J. (ORAL)

Heard.

The only point raised, while assailing the award dated 19.10.2001 passed by the Motor Accident Claims Tribunal, Chandigarh, is that the claim petition was filed more than one year after the accident which took place on 23.08.1993. As per the limitation provided in the unamended Motor Vehicle Act before 14.11.1994 the period of limitation was prescribed as six months which could be extended up to 12 months.

Learned State counsel submits that the period of limitation to file claim petition had expired in July, 1994 before the amendment was carried in Motor Vehicle Act dispensing with the limitation for filing claim petition, as such, this petition was barred by limitation.

The above point was taken into account by the Tribunal in paras 13 and 14 of the award which read as follows:

> "13. Although, there is no issue, but learned Government pleader raised objection that the

claim petition is barred by limitation as the accident had taken place on 23.08.1993, whereas the claim petition was filed on 26.05.1999 almost after six years.

14. The objection of learned Government Pleader has no merit in the light of provisions of law laid down in Ravindera Kumar Kapoor and others versus VIIth Addl. District & Sessions Judge and Tribunal, Kanpur Nagar and Others (2000 A.C.J.435). In this case the accident occurred on 8.2.1991, but the claim petition was filed on 19.4.1997. Rejecting the contention (sic) the amending Act of 1994 which deleted sub-Section (3) (sic) Section166 which provided for limitation is not (sic) of the sub-section, the Hon'ble High Court of Judicature at Allahabad held that "when sub-section (3) of Section 166 has been omitted, then the Tribunal has to entertain a claim petition without taking note of the date on which such accident had taken place. The claim petitions cannot be thrown out on the ground that such claim petitions were barred by time when sub-Section (3) of section 166 was in force."

The issue, as to whether the claim petition filed more than one year after the accident even if that had taken place before the amendment, was carried out on 14.11.1994, is no more *res integra* in view of the observation made in the case of ***The New India Assurance Co. Ltd. Versus C. Padma & anr.*** reported as ***2003(4) RCR (Civil) 274***, the relevant paras 10, 11 and 12 of which are reproduced as follows:

> 10. The ratio laid down in Dhannalal's case (supra) applies with full force to the facts of the present case. When the claim petition was filed sub- section (3) of Section 166 had been omitted. Thus, the Tribunal was bound to entertain the claim petition without taking note of the date on which the accident took place. Faced with this situation, Mr. Kapoor submitted that Dhannalal's case does not consider Section 6A of the General Clauses Act and therefore, needs to be reconsidered. We are unable to accept the submission. Section 6A of the General Clauses Act undoubtedly provides that the repeal of a provision will not affect the continuance of the enactment so repealed and in operation at the time of repeal. However, this is subject to "unless a different intention appears". In Dhannalal's case the reason for the deletion of sub-section (3) of Section 166 has been set out. It is noted that the Parliament realized the grave injustice and injury caused to heirs and legal representatives of the victims of accidents if the claim petition was rejected only on ground of limitation. Thus

"the different intention" clearly appears and Section 6A of the General Clauses Act would not apply.

11. Mr. Kapoor, learned counsel for the appellant, has placed reliance on the decision rendered by this Court in Vinod Gurudas Raikar vs. National Insurance Co. Ltd., AIR 1991 SC 2156. The facts of that case were that the appellant was injured in an accident, which took place on 22.1.1989. The claim petition of the appellant was filed on 15.3.1990 with a prayer for condonation of delay. The Tribunal held that in view of sub- section (3) of Section 166 of the new Motor Vehicles Act, which came into force on 1.7.1989, the delay of more than six months could not be condoned. In the facts and circumstances of that case this Court held that the case of the appellant was covered by the new Act and the delay for a longer period than six months could not be condoned. In our view, the facts of the case in Vinod Gurudas (supra) are different from the facts of the present case, as noticed above.

12. Learned counsel for the appellant, next contended that since no period of limitation has been prescribed by the Legislature, Article 137 of the Limitation Act may be invoked, otherwise, according to him, stale claims would be encouraged leading to multiplicity of litigation for non-prescribing the period of limitation. We are unable to countenance with the contention of the appellant for

more than one reason. Firstly, such an Act like Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, if otherwise the claim is found genuine. Secondly, it is a self contained Act which prescribes mode of filing the application, procedure to be followed and award to be made. The Parliament, in its wisdom, realised the grave injustice and injury being caused to the heirs and legal representatives of the victims who suffer bodily injuries/die in accidents, by rejecting their claim petitions at the threshold on the ground of limitation, and purposely deleted sub-section (3) of Section 166, which provided the period of limitation for filing the claim petitions and this being the intendment of the Legislature to give effective relief to the victims and the families of the motor accidents untrammeled by the technicalities of the limitation, invoking of Article 137 of the Limitation Act would defeat the intendment of the Legislature.

In view of the above, this appeal has no merits and same is dismissed.

Statutory amount of ₹25,000/- be sent to the Tribunal for disbursement to the claimant as per norms.

21st August, 2015 (SURINDER GUPTA)
'raj' JUDGE