

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

C.M.A. No. 973 of 2016

JUDGMENT:

This CMA is filed by the appellant/claimant aggrieved by the order dated 3.5.2000 in I.A.No. 2288 of 1999 in O.P.No. 87 of 1998 on the file of Motor Accidents claims Tribunal –cum- District Additional District Judge, Vizianagaram.

By the impugned order, the learned Tribunal dismissed the petition filed by the claimant under Order 9 Rule 9 CPC to restore his O.P, which was dismissed for default on 26.10.1999. The reason shown by the claimant for his absence on 26.10.1999, on which date his O.P. was dismissed, was that on that day he could not attend the Court, as he went to Vijayawada to see his cousin, who was suffering from chest pain since three days prior to the date of adjournment. The said explanation was not found favour with the lower Tribunal, as it observed that the matter was coming up for hearing since one year i.e., since 17.11.1998 and in none of the previous adjournments, the petitioner could report ready and finally the mater was posted to 12.10.1999, and a conditional order was passed on that day that no further adjournment would be granted under any circumstances, and on that condition, the matter was posted to 26.10.1999 and on the date of adjournment on 26.10.1999 there was no representation on behalf of the petitioner and the petitioner was called absent and as there was no other option the Tribunal dismissed the petition for default. The Tribunal further observed that the petitioner could not able to

produce any proof showing that he went to Vijayawada to see his ailing cousin. Further, he did not file the petition to set aside the dismissal order immediately after coming from Vijayawada to his place of residence, but he was negligent throughout.

On the aforesaid observations the Tribunal dismissed I.A No. 2288 of 199. Aggrieved by the same, the claimant filed the instant appeal.

Heard both sides.

On perusal of the impugned order, the lower Tribunal having been vexed with lackadaisical attitude of the petitioner in not diligently prosecuting the O.P. constrained to dismiss the O.P. and having found that no merits in I.A. No. 2288 of 1999, the Court also dismissed the set aside petition.

At the outset, I find no illegality or irregularity in the said order to consider this appeal.

Accordingly, this appeal is dismissed for want of merits. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 20.10.2016

KA