

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1089 of 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is directed against the order dated 05.10.2006 in I.A. No.271 of 2006 in I.A. No.414 of 2005 in M.V.O.P. No.300 of 2001 on the file of the Chairman, Motor Accident Claims Tribunal-cum-VI Additional District Judge(Fast Track Court), Chittoor at Tirupathi('the Tribunal', for brevity).

2. Heard both sides and perused the record.

3. The appellant/claimant filed M.V.O.P. No.300 of 2001 before the Tribunal claiming compensation for the injuries sustained by him in a road accident occurred on 08.10.1999. As he was not evincing any interest to proceed with the case, the O.P. was dismissed for default on 24.11.2005. Thereafter, the appellant/claimant filed I.A. No.414 of 2005 to restore the O.P. The material on record reveals that the said petition also underwent several adjournments and on 18.05.2006, it was dismissed as there was no representation on behalf of the appellant/claimant. To set aside the said order of dismissal passed in I.A. No.414 of 2005, a petition in I.A. No.271 of 2006 was filed by the appellant/claimant. The Tribunal, while dismissing the said I.A. vide impugned order, made the following observation:

“A further perusal of the record shows that the main O.P. was dismissed on 24.11.2005, when the petitioner was not evincing any interest to proceed with the matter. Later after keeping quiet for about one month, the petitioner came forward with I.A. No.414/2005 on 23.12.2005 to restore the main O.P. The said petition in I.A. No.414/2005 also underwent several adjournments up to 18.5.2006 on which date the same was dismissed at the

time when there was no representation on behalf of the petitioner.

Again the petitioner keeping quiet for about one month came forward with the present petition on 17.6.2006 with the above said contention. Hence, in view of the reasons stated above, I find that there are no merits in the petition. Hence the petition is dismissed.”

4. The appellant/claimant has not diligently pursued the claim petition. Certainly, there are laches on his part. However, there is no limitation to file claim petition under the Motor Vehicles Act, 1988. The appellant/claimant said to have sustained injuries in a road accident in 1999. The reason assigned by the appellant/claimant for non-appearance before the Tribunal is that the counsel representing him in the Tribunal was out of station on 05.10.2006 leading to passing of the impugned order as there was no representation. However, in the facts and circumstances of the case and because it is a beneficial legislation, one more opportunity can be given to the appellant/claimant.

5. In the result, the impugned order is set aside on condition of petitioner paying Rs.500/- to the Legal Services Authority, Tirupathi and filing a memo to that effect before the Tribunal. On filing such a Memo, the Tribunal shall restore I.A. No.271 of 2006 and proceed with enquiry in accordance with law.

6. The appeal is allowed accordingly.

Miscellaneous Petitions pending, if any, in the appeals shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

12.06.2018
DRK

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1089 of 2006



12.06.2018

DRK