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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24th July, 2023

+ **MAC.APP. 55/2023 & CM APPL. 4582/2023**

SATYA VEER SINGH Appellant

Through: Mr. Yogesh Swaroop, Adv.

versus

SAHID & ORS (ORINETAL INSURANCE CO. LTD.)

..... Respondents

Through: Mr. Ravi Sabharwal, Adv. for
R-2.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 4582/2023

1. By way of present application, condonation of delay in filing the present appeal is sought.

2. This appeal has been filed challenging the Award dated 15.03.2021 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal-02, Central, Tis Hazari Courts, Delhi (hereinafter referred to as the learned 'Tribunal') in MACT No. 56598/2016 titled *Sh. Satya Veer Singh v. Sahid And Ors.*, dismissing the claim petition filed by the appellant. The present appeal has been filed with a delay of 550 days.

3. The learned counsel for the appellant submits that the appellant

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suffered 90% permanent disability related to brain due to the accident in question. He submits that the appellant belongs to a poor strata of the society, therefore, there was nobody on his behalf to pursue the appeal before this Court.

4. For the reasons stated in the application being 4582/2023, it is allowed and the delay in filing the present appeal is condoned.

5. The application stands disposed of.

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6. Learned counsel for the appellant, on merits, submits that the learned Tribunal, in Impugned Award has held that the claim petition was not maintainable inasmuch as the appellant has earlier filed the claim petition before the learned Motor Accidents Claims Tribunal, Shahdara District, Karkardooma Court, Delhi, which was dismissed in default on 26.04.2014. Instead of filing an application seeking recall of the said order, the claimant chose to file the claim petition, in which the Impugned Award has been passed.

7. Learned counsel for the appellant submits that the appellant, due to his injury, was completely dependent on the advice received from his counsel. It was only on such advice received that the appellant filed the claim petition, which now stands dismissed by the Impugned Award.

8. Placing reliance on the judgment of the High Court of Himachal Pradesh in *Jagdish vs. Rahul Bus Services & Ors.*, 2015 SCC OnLine HP 1137, he submits that the appellant should be given an opportunity to move an appropriate application before the learned MACT, Shahdara District, Karkardooma Court, Delhi, for recall of the order



dismissing the claim petition in default and to revive the same.

9. He submits that while finding that the claim petition was not maintainable, the learned Tribunal in its Impugned Award has also dismissed the claim petition filed by the appellant on merits. He submits that once the Court found that the claim petition was not maintainable before it, any observation made by the learned Tribunal should not bind the claimant or prejudice the claimant on revival of the earlier claim petition, if at all.

10. I find merit in the submissions made. Though no fault can be found with the learned Tribunal in dismissing the claim petition on the ground of it being not maintainable in view of the dismissal of the earlier petition in default; and the only remedy with the appellant being of seeking recall of the order dismissing the earlier Claim Petition in default, at the same time, any observation made by the learned Tribunal in the Impugned Award cannot bind or influence the learned MACT in case the earlier petition is revived on an application filed by the appellant.

11. As has been repeatedly held, the Motor Vehicles Act, 1988 is a beneficial legislation and aims at reaching the victims of a traffic accident. The approach of the Court, therefore, has to be in consonance with the said object and not to insist on technicalities of the civil procedure.

12. Keeping in view the above, while I find no merit in the present appeal insofar as the impugned Award holds the Claim Petition filed by the appellant to be not maintainable, the appellant is granted liberty to move an appropriate application in the earlier claim petition that

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was dismissed by the learned MACT, Shahdara District, Karkardooma Court, Delhi. In case such an application is filed within a period of eight weeks from today, the appellant shall be entitled to claim the benefit of Section 14 of the Limitation Act, 1963 for excluding the period spent in pursuing the second claim petition and this appeal.

13. Any observations/findings of the learned Tribunal in the Impugned Award shall not bind or influence the learned Motor Accidents Claims Tribunal in adjudicating the application, if filed, and the Claim Petition of the appellant, that stands dismissed in default as on this day, if the order dismissing the same in default is recalled by the learned Tribunal.

14. However, at the same time, keeping in view that the second claim petition was *ex facie* was not maintainable before the learned Tribunal, but stood pending adjudication from October, 2014 to March, 2021; the present appeal was filed with a delay of 550 days, and has been disposed of by the present order only to give another opportunity to the appellant to make out his claim, for the period between 20.10.2014 till the application seeking restoration of the earlier claim petition is filed by the appellant, and in case the respondents are fastened with liability to pay any amount to the Claimant, the respondents cannot be made liable to pay interest for this intervening period. It is, therefore, directed that in case the first Claim Petition filed by the appellant is restored and is thereafter decided in favour of the appellant directing compensation to be paid to the appellant, the appellant shall not be entitled to any interest on the sum so awarded between the period 20.10.2014 till the filing of the



application seeking restoration of the first Claim Petition.

15. The appeal, along with the pending application, is disposed of in the above terms.

NAVIN CHAWLA, J

JULY 24, 2023/Arya/ss

Click here to check corrigendum, if any

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