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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 12.12.2023**+ **MAC.APP. 155/2021**

SANJU DEVI

..... Appellant

Through: Mr.Rajneesh Shukla,
Mr.Deepak Kumar, Mr.Vidya
Sagar, Mr.Ashutosh Kumar,
Mr.Shirish Shukla, Advs.

versus

SANJAY KUMAR & ORS (ROYAL SUNDRAM ALLIANCE
INSURANCE CO LTD)

Respondents

Through: Mr.Pankaj Gupta, Adv. for R-4.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This appeal has been filed challenging the Order dated 14.02.2020 (hereinafter referred to as the 'Impugned Order') passed by the learned Motor Accidents Claims Tribunal-02, North, Rohini, Delhi (hereinafter referred to as the 'Tribunal) in MACP No. 5832/2016, titled *Sanju v. Sanjay Kumar & Ors.*, dismissing the Claim Petition filed by the appellant herein for non-prosecution.

2. The learned counsel for the appellant submits that the learned Tribunal, in the Impugned Order, has wrongly recorded that the affidavit of evidence was not filed by the appellant/claimant. He submits that the affidavit stood duly filed on 27.09.2018, as is evident from the Order dated



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14.03.2019 passed by the learned Tribunal on the previous date. He submits that the appellant has been duly prosecuting the Claim Petition and, pursuant to the Order dated 27.09.2018, has also been assessed by the Medical Board constituted by the Babu Jagjivan Ram Memorial Hospital, Jahangir Puri, Delhi (hereinafter referred to as 'BJRM Hospital') to be suffering from 30% permanent disability in relation to her spine. The said certificate is also on record before the learned Tribunal. On 14.03.2019, the learned counsel appearing for the Insurance Company, that is the respondent no.4 herein, had sought time from the learned Tribunal to explore the possibility of a settlement. The learned counsel for the appellant submits that the appellant is a widow and is facing grave difficulty in order to sustain herself and her children. He submits that in these facts, the learned Tribunal could not have dismissed the Claim Petition for non-prosecution.

3. The learned counsel for the respondent no.4 opposes the above submission by contending that the issues in the Claim Petition were framed on 28.05.2016. It is only after a lapse of more than two years that the appellant filed her evidence by way of affidavit on 27.09.2018, prior to which the learned Tribunal, vide Order dated 23.03.2018, had already curtailed her claim of interest till conclusion of evidence. Even thereafter, the appellant did not appear before the learned Tribunal, forcing the learned Tribunal to pass the Impugned Order.

4. I have considered the submissions of the learned counsels for the parties.

5. The Disability Certificate issued by BJRM Hospital shows that the appellant has suffered 30% permanent disability in relation to her spine. She is stated to be a widow looking after her children alone. It is also evident from the record that the affidavit of evidence of the appellant stood



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filed on 27.09.2018. The observation of the learned Tribunal in the Impugned Order that affidavit of evidence has not been filed is therefore incorrect. The learned Tribunal also noticed that no PW is present, while the record shows that the appellant was present in person on the said date. She herself is a witness in the Claim Petition, and should have been examined by the learned Tribunal on the said date.

6. In my view, therefore, the learned Tribunal has erred in passing the Impugned Order and dismissing the Claim Petition. It is to be remembered that the Motor Vehicles Act, 1988 is aimed at providing relief to the victims of the road accident and should not be bogged down by technicalities of procedure.

7. In view of the above, the Impugned Order dated 14.02.2020 is set aside. The Claim Petition filed by the appellant before the learned Tribunal, being MACP No. 5832/2016, is restored to its original number, and should be taken up by the learned Tribunal from the stage as it was at the time of passing of the Impugned Order.

8. The appellant is, however, warned to be more vigilant now in prosecuting her Claim Petition and she would not be entitled to any further indulgence in the Claim Petition.

9. Needless to state, the Orders dated 23.03.2018 and 16.05.2019, by which right of the appellant to claim interest has been restricted, as the same have not been challenged before this Court, shall continue to operate.

10. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

DECEMBER 12, 2023/Arya/RP

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