



\$~15

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

Date of decision: 12.07.2023

+ **MAC.APP. 218/2022**

NAVEEN KUMAR Appellant
Through: Mr.S.N.Parashar, Adv.

versus

JASWANT SAINI & ORS. Respondents
Through: Mr.A.K.Singh, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

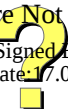
1. The present appeal has been filed challenging the order dated 13.12.2021 (hereinafter referred to as the 'Impugned Order') passed by the learned Motor Accidents Claims Tribunal – 01, Central District, Tis Hazari Courts, Delhi (hereinafter referred to as the 'Tribunal'), in MACT No.796/2019, dismissing the claim petition filed by the appellant herein on the ground that the appellant, in spite of opportunities being granted, did not lead any evidence and in absence of such evidence, has not been able to discharge the onus of proof that was placed on the appellant.
2. The learned counsel for the appellant submits that the appellant and its witnesses could not appear before the Court due to the Covid-19 pandemic that was at its prime during that period. He submits that this being a claim petition filed under The Motors Vehicles Act, 1988 (hereinafter referred to as the 'Act'), a



sympathetic view should have been taken by the learned Tribunal and the claimant should be granted a fair opportunity to prove his claim.

3. On the other hand, the learned counsel for the respondent no.3 submits that adequate opportunity was granted by the Tribunal to the appellant to lead his evidence and to prove his case, however, the appellant failed to do so. He submits that, therefore, no fault can be found with the Impugned Order.
4. I have considered the submissions made by the learned counsels for the parties.
5. As it is evident from the reading of the Impugned Order, the dates on which the appellant or its witnesses could not appear before the learned Tribunal were during the period covered by the Corona Virus (Covid-19) pandemic.
6. In my view, taking the spirit behind the direction issued by the Supreme Court in *Suo Moto Writ Petition (Civil) no.3/2020*, and also considering the fact that the Act is a beneficial legislation as far as the claim of compensation is concerned, the appellant could have been granted a further opportunity to lead evidence in support of his claim. In ***Vimla Devi v. National Insurance Co. Ltd., (2019) 2 SCC 186***, the Supreme Court had reemphasized the object of the Act, as under:

“15. At the outset, we may reiterate as has been consistently said by this Court in a series of cases that the Act is a beneficial piece of legislation enacted to give solace to the victims of the motor accident who suffer bodily injury or die untimely. The Act is designed in a manner, which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and





other proceedings while prosecuting the claim petition filed under the Act for claiming compensation for the loss sustained by them in the accident.”

7. Accordingly, the Impugned Order dated 13.12.2021 is set aside. The claim petition, being MACT No.796/2019, is restored back to its original number before the learned Tribunal. It shall be taken up from the stage it was at, before its dismissal by the Impugned Order. The appellant shall be granted an opportunity by the learned Tribunal to lead his evidence. The parties shall appear before the learned Tribunal on 21st August, 2023.
8. As the appellant has already been granted this indulgence, the appellant is made conscious and is warned that no further indulgence shall be granted to him and any further defaults would be seriously viewed by the learned Tribunal.
9. The appeal is allowed in the above terms. The parties shall bear their own costs.

NAVIN CHAWLA, J

JULY 12, 2023
RN/AS