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

% **Date of decision: 1st April, 2024**

+ **MAC.APP. 96/2023 & CM APPL. 8181/2023, CM APPL. 8183/2023**

DILIP KUMAR Appellant

Through: Appellant in person

versus

DHARMENDRA SINGH AND ORS Respondents

Through: Mr. Pankaj Seth, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. This appeal has been filed by the appellant/claimant, who appears in person, assailing the impugned Award dated 02.08.2019, whereby his claim petition under Section 166 and 140 of the Motor Vehicles Act, 1988¹, was dismissed by the learned Presiding Officer, Motor Accident Claims Tribunal-01, North-District, Rohini, Delhi² primarily for the reasons that the appellant/claimant had failed to lead any evidence despite affording sufficient opportunities.

2. Learned counsel for the respondent No.3 is present on notice of the appeal. However, none appeared for the respondents No. 1 and 2 i.e. the driver and the registered owner of the vehicle despite sending advance notice.

¹ MV Act

² Tribunal



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3. The appellant/claimant has moved CM APPL. 8181/2023 seeking condonation of delay of 944 days in filing petition as well as CM APPL. 8183/2023 for delay of 246 days in re-filing.

4. The plea of the appellant/claimant is that he was not able to pursue his claim petition during the relevant time for financial hardships and on account of unprofessional conduct of his counsel who was all the time demanding legal fees from him and never allowed him to appear before the learned Tribunal for leading his evidence. It is also submitted that as a result of grievous and life threatening injuries sustained in the motor accident in question, which occurred on 01.04.2009, he was also unable to pursue his petition seeking compensation either.

5. Learned counsel for the respondent No.3/Insurance Company has urged that period of filing the appeal expired long before COVID-19 pandemic period and it was argued that the appeal is hopelessly barred by limitation.

6. Having heard the appellant/claimant and considering that he hails from impoverished and illiterate background, his pleas cannot be just brushed aside. A litigant at times does suffer at the hands of unscrupulous counsel and it is but the call of justice that the appellant/claimant be given another opportunity to present his claim before the learned Tribunal, subject to certain conditions so that the process of law is not abused.

7. It would be bear repetition that the impugned judgment was passed on 02.08.2019 and period of filing of appeal expired long before COVID-19 pandemic period, which occurred from 23.03.2020



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leading to national lockdown and resulting in other time pressing measures. The appeal is then filed on 02.06.2022 and in the aforesaid circumstances, the appellant/claimant is entitled to leverage in terms of directions of the Supreme Court in the **Suo Motu Writ Petition (C) No. 3 of 2020 [In Re: Cognizance for Extension of Limitation]** for extension of limitation and the period for filing from 15.03.2020 to 28.02.2020 needs to be excluded.

8. The delay of 246 days in re-filing has also occurred apparently for some lapses on the part of Advocate of the appellant/claimant. The appellant/claimant is, however, appearing diligently before this Court on every date of hearing in person.

9. In view of the foregoing discussion, the delays in filing the present appeal as well as re-filing of the appeal are hereby condoned.

10. The impugned judgment dated 02.09.2019 passed by the learned Tribunal is hereby set aside and the matter is remanded back to the learned Tribunal with directions to afford the appellant/claimant one opportunity to lead evidence on any convenient date. If the appellant/claimant wants to lead further evidence, he shall file a list of witnesses on appearing before the learned Tribunal. Learned Tribunal shall consider the aspect of summoning of other witnesses as per law.

11. It shall be ensured that the trial is concluded within a period of 6 months from the date of this order and the appellant/claimant as well as his counsel shall appear before the learned Tribunal on 01.09.2024. The learned Tribunal shall issue fresh notice to the respondents No. 1 and 2. i.e. the driver and the registered owner of the vehicle as per law before proceeding to record the evidence of the appellant/claimant.



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12. The appellant/claimant shall be entitled to free legal aid/services and for this purpose he may approach learned Secretary, Delhi Legal Services Authority, North/North-West District, Rohini Courts, Delhi, who shall assign him a competent and experienced Advocate.

13. The present appeal along with the applications stands disposed of accordingly.

DHARMESH SHARMA, J.

APRIL 01, 2024

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