

(1999) 07 AP CK 0032
In the Andhra Pradesh High Court
Case No : AAO No. 1629 of 1991

Kudumu Veeraswamy

APPELLANT

Vs

Gunam Veerraju and another

RESPONDENT

Date of Decision : 14-07-1999

Acts Referred:

Motor Vehicles (Amendment) Act, 1994 — Section 53
Motor Vehicles Act, 1988 — Section 110, 166(3)

Citation : (1999) 5 ALD 30

Hon'ble Judges : E. Dharma Rao, J

Bench : Single Bench

Advocate : Mr. M. Rajamalla Reddy, for the Appellant; Mr. Nayani Krishna Murthy and Mr. Gummala Vijaya Kumar, for the Respondent

Judgement

1. This Civil Miscellaneous Appeal was filed against the order passed in IA No.252/1991 in OP (SR) No.1835/1991 on the file of the Motor Accidents Claims Tribunal Cum-District Judge, East Godavari at Rajahmundry.

2. The above said IA was filed to condone the delay of 2 years and 215 days in filing the OP. When the IA came up for consideration, on 5-8-1991 the learned District Judge dismissed the same on the ground that there is delay of 2 years and 215 days in filing the OP claiming compensation in respect of the accident that occurred on 10-2-1988 and the petition was presented before the District Judge on 13-3-1991. The learned District Judge in his order observed that the Amended provisions of the Motor Vehicles Act (hereinafter referred as the Act) came into force with effect from 1-7-1989, Section 166(3) thereof contemplates that the application for compensation has to be made within a period of six months from the date of accident. The said provision enables the claims Tribunal to entertain the application u/s 110A of the Act after expiry of the period of six months, but not later than twelve months, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time. Thus in view of Section 166(3) of the Act, the OP is not maintainable. The learned Judge also

relied on a decision in Smt. Maqubal Bee and Others Vs. Andhra Pradesh State Road Transport Corporation, and dismissed the said IA against which the present appeal is filed.

3. Mr. Raja Malla Reddy, the learned Counsel for the appellant, while arguing the matter, brought to notice that subsection (3) of Section 166 of the Act was deleted by Section 53 of the Motor Vehicles (Amendment) Act, 1994 and it came into force from 14-11-1994 and by virtue of that deletion of sub-section (3) of Section 166 the question of limitation in filing the claim petitions does not arise. He also relied on a decision of Supreme Court in Dhannalal Vs. D.P. Vijayvargiya and Others, , which was followed by a learned Judge of this Court in Talamatla Sugunamma and Another Vs. Ch. Kanakaiah and Another, , wherein it is held that the effect of the said amendment is that there is no limitation for filing claims before the Tribunal in respect of any accident. The Supreme Court further held that if any claimant having filed an objection beyond the time which has been rejected by the Tribunal or the High Court, does not challenge the same and allows such judicial order to become final, the provisions of the Amending Act shall be of no help to such claimant for the reason that the judicial order saying that such petition of claim was barred by limitation has attained finality, but the principle will not govern cases where the dispute as to whether the petition for claim having been filed beyond the period of twelve months from the date of the accident is pending consideration either before the Tribunal, High Court or the Supreme Court. In such circumstances, the benefit of the Amendment of sub-section (3) of Section 166 should be extended.

4. In the present case, the alleged accident occurred on 10-2-1988 and the claim application for compensation was presented before the Tribunal on 13-3-1991 i.e. after a lapse of more than two years of the accident and the Tribunal considering the inordinate delay in filing the OP dismissed the IA on 5-8-1991, which is impugned in this Appeal. The judgment in Smt. Maqbul Bee's case, (supra) relied on by the learned District Judge in dismissing the IA is no more a good law in view of the judgment of the Supreme Court in Dhannalal's case (supra) and of this Court in Talamatla Sugunamma's case (supra). Therefore, the order of the Tribunal is set aside extending the benefit of Section 166 of the Act 39 of 1988 to the appellant.

5. In the result, the appeal is allowed setting aside the impugned order of the Tribunal in IA No.252/91 in OPSR 1835/91, and the matter is remanded to the Tribunal below with a direction to register the petition and proceed in the matter according to law. No costs.