
(1996) 05 MP CK 0056
In the Madhya Pradesh High Court
Case No : Civil Rev. No. 787 of 1995

Narendra Singh Gajraj Singh Baghel

APPELLANT

Vs

Gulab Bai and Others

RESPONDENT

Date of Decision : 13-05-1996

Acts Referred:

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

Citation : (1996) JLJ 448 : (1996) 41 MPLJ 1057 : (1996) MPLJ 1057

Hon'ble Judges : S.S. Jha, J

Bench : Single Bench

Advocate : O.P. Mathur, for the Appellant; T.C. Bansal, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Jha, J.

This revision has been filed against the order dated 31-7-1995, passed by Third Additional District Judge, Vidisha in M.C.C. No. 7/95.

A claim petition u/s 166 of the Motor Vehicles Act, 1988 was filed before the Accident Claims Tribunal, Vidisha. It was alleged in the application that the accident occurred on 1-5-1990, which resulted into death of one Shankarlal. Shankarlal died on 10-5-1990 on account of the accident. The claimants/non-applicants are the heirs of Shankarlal. The claim petition was filed before the trial Court u/s 166 of the Motor Vehicles Act on 8-9-1994 along with an application for condonation of delay u/s 5 of the Limitation Act. The ground alleged in the application was that the widow of the deceased lost her mental balance and children being minor the application could not be filed in time.

The contention of the learned counsel for the applicant is that the claim petition is not maintainable in view of Section 166(3) of the Motor Vehicles Act. Section 166(3) of the Motor Vehicles Act provides for filing a claim petition within six months from the date of accident and the Claims Tribunal was empowered to

condone the delay, which should not be beyond 12 months. The contention of the learned counsel for the applicant is that the claim petition itself was not maintainable because it was filed beyond the period of one year and the Court had no jurisdiction to entertain the application.

Learned counsel for the non-applicants/claimants submitted that vide Amendment Act No. 54 of Motor Vehicles (Amendment) Act, 1994 (hereinafter referred to as the Amendment Act"), sub-section (3) of Section 166 has been deleted. Therefore, no period of limitation is prescribed for filing an application. The claim petition has rightly been held to be in time.

The contention of the learned counsel for the applicant is that deletion of sub-section (3) of Section 166 cannot take away the valuable right accrued to the applicant. The claim application was not maintainable on the date it was filed. Therefore, the claim petition deserves to be dismissed. Learned counsel cited number of cases and submitted that the law of limitation is a procedural law and its provisions operate retrospectively in the sense that they apply to causes of action arose before their enactment, but if a right to sue becomes barred by the provisions of the Limitation Act then in force, then such a barred right is not revived by the application of the new enactment. He referred to the judgments reported in AIR 1951 Madras 314, *Km. Kr. Ramanathan Chettiar by partner Km. Kr. Lakshmanan Chettiar (died) v. N. M. Kandappa Goundan (died) and Ors.*; Vol XV-1887-88 Ind. Ap. 167, *Appasami Odayar and others and Subramanya Odayar and others*; AIR 1937 Bombay 392, *Frany Barjorji Engineer v. Shapurji Kekobad Modi*; and AIR 1953 SC 1356, *S. C. Prashar and Anr. v. Vasantsen Dwarkadas and Ors.* The aforesaid Supreme Court judgments relate to matter relating to Income Tax and reference to the question of law of limitation, which is a procedural law and although it is open to the legislature to extend the period of limitation, an important right accrues to a party when the remedy against him is barred by the existing law of limitation and a vested right cannot be affected except by express terms used by the statute or the clearest implication flowing therefrom.

The contention of the learned counsel for the applicant is that the right to sue was not available to the applicant on the date of representation of the claim petition u/s 166(3) of the Motor Vehicles Act, 1988. The learned counsel submitted that once on the date of presentation of the application the right of the claimants was barred, he cannot get any relief on account of Amendment Act.

The Motor Vehicles Act, 1988 consolidated and rationalised various laws regulating road transport, and it came into force with effect from 1st July, 1989. After the aforesaid Act came into force, number of representations and suggestions were received by the Government from the State Governments, transport operators and members of public regarding the inconvenience faced by them because of the operation of some of the provisions of the 1988 Act. A Review Committee was, therefore, constituted by the Government in March, 1990 to examine and review the 1988 Act.

The recommendations of the Review Committee were forwarded to State Governments for comments and they generally agree with these recommendations. The Government also considered various aspects and Bill No. LIII of 1994 was introduced in the Parliament. The Bill provides for removal of time limit for filing of application by road accident victims for compensation. The intention was to provide adequate compensation to victims of road accidents without going into long-drawn procedure. By Clause 53 of the Bill, it was mentioned that Clause 53 seeks to amend Section 166 to provide for a simplified procedure for filing of applications for compensation. It also provides for removal of time limit for filing of such applications. It also provides that the Claims Tribunals shall treat a report received under sub-section (6) of Section 158 as an application for compensation under the Act. Thus, the intention of the Legislature was very clear and the Legislature wanted to provide a simplified procedure for filing claim petition in some road accidents and removal of time limit for filing such applications. Accordingly, the Act came into force on the 14th day of November, 1994.

The intention of Legislature is very clear to provide simplified procedure and not to deprive legitimate claim on account of technicalities of the Limitation Act. This Act is a special Act, as it is not governed by law of limitation. The procedure in Section 166 earlier provided for period of limitation, now there is no time limit for claiming compensation under the Act. From the intention of the Legislature, it is clear that there is no time limit for filing a claim application by the victim of the motor-accident, Normally, now if the claim petition can be filed by the claimants, it will not be proper to reject their application on the ground that at the time of filing of application, it was not maintainable. On the other hand, the claimants can now file fresh application. In such circumstances, it is not proper to dismiss the claim on account of delay when the claimants have right to file fresh claim petition, their right to get their claims decided in the present application cannot be denied. The intention of the Legislature is very clear. Section 166 of the Motor Vehicles Act is a procedural law and every procedural law has a retrospective effect. This law has been well-settled in the case of *Anant Gopal Sheorey Vs. The State of Bombay*, .

At any rate, on the date on which the application for condonation of delay was considered, Motor Vehicles Amendment Act came into force. The Amendment Act came into force with effect from the 14th day of November, 1994 vide notification dated 6th October, 1994. Therefore, the trial Court has rightly held that there is no period of limitation for filing the application.

The rights provided u/s 166 of the Act are procedural rights. By the amendment in the procedure the claimants acquired the right to file petition and the claim cannot be rejected on the ground of delay. The intention of the Legislature is very clear and the Act has been amended to provide a simplified procedure of filing of application for compensation.

Learned counsel for the non-applicants/claimants has cited the case of *Radha Bai*

and Others Vs. Suresh Pal and Others, . It has been held in that case that it is settled law that for making the right or remedy claimed by the parties just and meaningful in accordance with the current realities, the court can, and in many cases must, take cognizance of the events and developments subsequent to the institution of the proceeding provided the rules of fairness to both the sides are scrupulously obeyed. On account of the amendment a claimant can file a claim petition at any time. When the claimants have a right to file fresh claim application their right to get their claim decided in the present application cannot be denied.

On the aforesaid discussion, the contention of the learned counsel for the applicant cannot be accepted. The revision has no merit and deserves to be dismissed and is hereby dismissed with costs. Counsel's fee Rs. 500/- if certified.