
(1999) 05 MP CK 0009
In the Madhya Pradesh High Court
Case No : Civil Rev. No. 340 of 1999

New India Insurance Co.

APPELLANT

Vs

Surendra Kumar Balveer Singh Kaushik and others

RESPONDENT

Date of Decision : 11-05-1999

Acts Referred:

Citation : (2000) 1 MPLJ 262

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : S.V. Dandwate, for the Appellant;

Final Decision : Dismissed

Judgement

J.G. Chitre, J.

It is indicated from the order that the hearing of a claim petition was protracted by the side of the claimants. The counsel appearing for the claimants sought frequent adjournments. That mainly caused the delay. The witnesses were also not promptly examined. The entry in the order-sheets show that the counsel appearing for the claimant sought adjournments as he could not inform the date of hearing of the claim petition to his clients, who were residing at Delhi. The Tribunal has considered this aspect and keeping in view the benevolent spirit of enactment by condoning the delay, restored the claim petition which was dismissed for default. The Tribunal observed that there was no point in putting the claimants to hardship on account of the defaults on the part of the counsel engaged by the claimant/claimants.

I do not find anything improper in the approach taken by the Tribunal in this context.

Shri Dandwate submitted that the counsel appearing for the claimant/claimants protracted the hearing of the claim petition and on account of that, now the Insurance Company has to pay a huge amount of interest if the award which is

likely to be passed would be directing payment of interest on the compensation amount from the date of presentation of the claim petition in the Tribunal and that would be causing a great hardship to the Insurance Company. I find substance in it. Unfortunately, the trend is growing now a days which shows that the claimant or the persons appearing for the claimant/claimants are not prompt enough to examine necessary witnesses within reasonable time. In some cases, it is seen that the doctors who are to be examined in respect of the point of disability, permanent or temporary, do not attend the Tribunals for the purpose of giving evidence after receiving the first summons. On some occasions, they are really prevented by genuine and reasonable causes, but on number of occasions, it is seen that the attendance is avoided. Some Advocates do not take prompt and legal steps for the purpose of procuring presence of relevant witnesses by following proper and legal procedure. The hearing of claim petition is taken as if it is a pleasure side moving around leisurely in lingering way. The time has come that now it should be stopped. The Insurance Company need not be saddled with extra payment in the nature of interest on account of such delaying tactics played deliberately or delay caused by casualness. In the cases where the delay has been caused from the side of the claimants, the Tribunal should not grant interest on the amount of compensation awarded to such claimant payable by the Insurance Company from the date of presentation of the petition. In such cases where the delay has been caused deliberately by the side of the claimant, the amount of interest on the compensation awarded should be from the date of award drawn. The Insurance Company should not be put to such hardship if the fault does not lie with it. But the officers of Insurance Companies should also note that they should be also prompt enough to remain present for the purposes of giving instructions to their counsel for submitting the written statement promptly, urgently and without putting lame excuses. Otherwise, they would be inviting personal liability of compensating the respective insurance companies.

This Court is directing a reference to the Bar Council of Madhya Pradesh for the purpose of taking appropriate action against the Advocates appearing for the claimant for causing such undue delay which shows prima facie casualness tilting towards professional misconduct, by following appropriate legal procedure. Let everybody be alert while dealing with the proceedings connected with benevolent laws.

Thus, this petition stands dismissed and not admitted. The Tribunal should decide the claim petition positively within six months. The Tribunal should also keep in mind the observations made by this Court in the above portion of the order while granting the interest amount on compensation.

CC on payment of usual charges.

Petition dismissed.