

(1986) 02 GUJ CK 0016
In the Gujarat High Court

Revaben P. Parmar and Others

APPELLANT

Vs

R.R. Yadav and Others

RESPONDENT

Date of Decision : 06-02-1986

Acts Referred:

Citation : (1986) 2 ACC 423 : (1987) ACJ 815

Hon'ble Judges : I.C. Bhatt, J

Bench : Single Bench

Judgement

I.C. Bhatt, J.—This petition has been filed challenging the orders at Annexures B and C to the petition, passed by the Motor Accident Claims Tribunal, Kaira at Nadlad, in Motor Accident Claims Cases Nos. 482 of 1982 and 484 of 1982. By Application Exh. 99, fresh summons were required to be issued to (1) one Dotor from Civil Hospital Ahmedabad and (2) one R.T.O. Officer from Bombay, as though the summons were issued to them, they were not returned duly served because of the Anti-Reservation Agitation. Application Exh. 100 was made for exhibiting one document, a namely, Certificate issued by the R.T.O. Bombay. Below Application Exh. 99 the following order was passed:

Heard. Rejected as sufficient opportunity is given but of no avail.

Sd/- F.C. Mehta, M.A.C.T. (A), 21-9-1985.

Application Exh. 100 was also rejected. The orders rejecting both these applications have been challenged in this petition.

2. Now, so far as the order passed below Application Exh. 99 is concerned the ground given by the M.A.C. Tribunal is that sufficient opportunity was given, but it has not been availed of. In the present case summons were issued to the witnesses earlier but they were not returned duly served because of the anti-reservation agitation. It is on the record that the summons were sent to the witnesses by registered post A.D. It is difficult to understand as to how it can be said that sufficient opportunity was given which was not availed of, when the summons earlier issued had not returned because of the disturbances, duly

served. No other ground has been given for rejecting the said Application Exh. 99. If the summons were not returned duly served the Tribunal ought to have reissued the summons because, it is not because of the fault on the part of the petitioners that those summons were not duly served. The Tribunal therefore, ought to have reissued the summonses. Learned Counsel for the respondent No. 3 has not been able to point out to me anything from the record to justify the order passed below Application Exh. 99 rejecting the prayer for the reissuance of the summonses. Under these circumstances, I allow the Application Exh. 99 and set aside the order passed by the Tribunal below it. The Tribunal will reissue the summonses as prayed for in the Application Exh. 99.

3. So far as the order below Application Exh. 100 is concerned, it was only for exhibiting document in the absence of the witnesses, as stated in the Application. Now, since the Application Exh. 99 is allowed, nothing requires to be done so far as Application Exh. 100 is concerned. After calling the witnesses the documents can be proved. Therefore, in view of the fact that Application Exh. 99 is allowed no orders are necessary so far as Application Exh. 100 is concerned.

4. This petition is accordingly allowed partly. Application Exh. 99 is allowed and the Tribunal is directed to reissue summons as prayed for in the said Application Exh. 99 Rule is accordingly made absolute, with no order as to costs.