
(1991) 11 MP CK 0030
In the Madhya Pradesh High Court
Case No : M.M. No. 123 of 1991

Saroj Bhansli

APPELLANT

Vs

Kali Charan and Others

RESPONDENT

Date of Decision : 12-11-1991

Acts Referred:

Constitution of India, 1950 — Article 227
Limitation Act, 1963 — Section 5

Citation : (1993) ACJ 290

Hon'ble Judges : T.N. Singh, J

Bench : Single Bench

Advocate : K.B. Chaturvedi, for the Appellant; V.K. Sharma, for the Respondent

Judgement

T.N. Singh, J.—Office has listed this matter with a note dated 21.10.1991 complaining default in taking steps by the appellant. No wonder, all through the appellant is behaving in the same manner defaulting everywhere all the time in the same style. The appeal even was lodged 159 days out of time. Although application u/s 5 of the Limitation Act is filed for condoning delay I have found no reasonable ground made out to explain each day's delay as contemplated under the law.

2. Mr. Vinaykant Sharma appears and submits that he filed power on 9.8.1991 on behalf of the insurer, respondent No. 5 and thereafter he filed power on 23.9.1991 on behalf of respondent No. 2. His name has been surprisingly not shown in the cause list. It is regrettable that office has not placed the two powers even on record. Whatever that may be, he is also heard in disposing of finally this matter today.

3. I have found it impossible to condone delay and to admit appeal for hearing parties. Still, care has to be taken of one grievance because of constitutional compulsion of overbearing nature. I am required to give effect to the judicial mandate of Full Bench decision of this Court and, therefore, to exercise my jurisdiction under Article 227 of the Constitution in that regard. In this Court's

decision of the Full Bench in Prakramchand Vs. Chuttan and Others, the law laid down is that in regard to passing of award of interest u/s 110-CC of the Motor Vehicles Act, 1939, Tribunals must exercise their discretion appropriately by awarding 12 per cent per annum interest from the date of application till payment.

4. In the instant case under the impugned award from the date of award interest is held payable by the respondents to the claimants-appellants. The accident took place on 10.2.1983 and the claim petition was filed on 5.8.1983. The award has been passed on 1.8.1990.

5. In the facts and circumstances of the case, the appeal is dismissed for reasons aforesaid but a direction is still made modifying the award in exercise of my jurisdiction under Article 227 of the Constitution. I direct that interest payable shall be from the date of application, namely, from 5.8.1983 and not from 1.8.1990. With that modification in the impugned award herein made the matter is disposed of.