

(1985) 02 MP CK 0002

Madhya Pradesh High Court (Indore Bench)**Case No:** None

Magankunwar

APPELLANT

Vs

M.P.S.R.T.C. Bhopal and Others

RESPONDENT

Date of Decision: Feb. 20, 1985**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 151

Citation: (1985) 2 ACC 97 : (1986) ACJ 703**Hon'ble Judges:** K.L. Srivastava, J**Bench:** Single Bench

Judgement

K.L. Srivastava, J.

This revision petition is directed against the order dated 22-11-1983 passed by the learned Member, Motor Accidents Claims Tribunal Shajapur in Claim Case No. 20 of 1980 whereby the petitioner's evidence stands closed.

2. The facts giving rise to this petition are these, the claim case referred to above, is one out of the 35 claims cases pending before the Tribunal in connection with a motor accident dated 6-5-1980 initially, when the case stood adjourned to 16th and 17th June 1983 for petitioner's evidence, the learned Tribunal in absence of their evidence, rejecting the counsel's prayer for an adjournment for adducing evidence, adjourned the case for fixing a date for opposite parties' evidence. Subsequently, on 26-8-1983, the petitioners moved an application u/s 151 CPC praying that they have kept their witnesses present and they be examined. On 10-10-1983, when the application was to be considered, the learned Member of the Tribunal was on leave and the Reader adjourned the case to 22-11-1983 for fixing the date for evidence.

3. On 22-11-1983, the aforesaid application was not opposed and the petitioners' present witnesses were examined and their case was closed.

4. The petitioner's grievance in this petition is that 22-11-1983 was not the date of hearing of the case by the Tribunal and, therefore, though some of their witnesses were absent the Tribunal could not have ordered closer of their case. In the circumstances further opportunity for adducing evidence ought to have been given.

5. In the decision in [S.M. Raja Goundar and Others Vs. Choolai Sabapathi Mudaliar](#), it has been pointed out that the Clerk of Court, if he had the authority from the Court to do so, could fix a date of hearing. In the instant case there is nothing to indicate that the Reader was so authorised. Apart from this, in the decision in Kanti Kumar Jha's case 1978(1)mpAWN 443 this Court has held that when in the absence of the presiding officer the date of hearing is fixed by the Reader of the Court in the absence of proof of his authority to do so it could not be taken to be date of hearing on which any adverse order could be passed against a party.

6. In the circumstances of the case, it has to be held that the impugned order deserves to be set aside in revision.

7. Before parting with the case, it may be observed that rules of procedure are meant to be the handmaid for administration of justice and they should not be used with a view to enforce discipline on the parties or to penalise them irrespective of the question of the justice of the case, right of hearing is a valuable right and when opposite party can be compensated by costs, the endeavor should be to afford the party full opportunity of hearing. In the decision in Kailash Narayan's case 1982 JIJ N 3 it has been pointed out that the right of a party to produce evidence is co terminus with the decision. It has also to be borne in mind that the claimants for compensation in cases arising out of accidents, have to be treated with a little sympathy. It is hoped that the learned Tribunal shall dispose of the petitioners' prayers keeping these observations in view.

8. In the result, the revision petition is allowed and the impugned order closing the petitioner case is set aside. The case is sent back to the learned Tribunal for further disposal of the case according to law. In the circumstances of the case. I make no order as to costs. Parties are directed to appear before the Tribunal on 26-2-1985.