

**(1994) 01 MP CK 0015**  
**Madhya Pradesh High Court**  
**Case No:** None

Dilip Kumar Gupta

APPELLANT

Vs

Ghanshyam Sharma and  
Another

RESPONDENT

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**Date of Decision:** Jan. 20, 1994

**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 9 Rule 13

**Citation:** (1994) 2 ACC 329

**Hon'ble Judges:** D.M. Dharmadhikari, J

**Bench:** Single Bench

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**Judgement**

D.M. Dharmadhikari, J.

In the motor accident, which took place on 13.10.1985, the property of the applicant was damaged who filed a claim petition in the Claims Tribunal. Summons on the application was issued and the report says that the Depot Manager of the respondent-Corporation at Saraipali refused to receive the same. The Claims Tribunal, therefore, proceeded ex-parte and passed an ex-parte award on 15.11.1989 awarding a sum of Rs. 12,000/- as compensation with 12% interest payable on the same. The respondent-Corporation, as late as on 25.1.1992, filed an application for setting-aside the ex-parte award. It was stated in the application that the Corporation derived knowledge of the passing of the ex-parte award only on 24.1.1992. The ground urged for setting aside, the ex-parte award was that the Corporation could have been validly served only through the Depot Manager, Raipur and the alleged refusal to accept the notice by the Depot Manager, Saraipali could not have been treated as valid notice to justify passing of the ex-parte award.

2. The learned Member of the Claims Tribunal accepted the grounds urged by the respondent-Corporation in the alleged application under Order 9, Rule 13 CPC and set aside the ex-parte award by the impugned order dated 20.1.1993.

3. The applicant in the revision against the order of the Claims Tribunal produced the certified copy containing the order sheets dated 24.12.1991 and 13.1.1992. It is apparent from the certified copy that on the above-mentioned dates, the Standing Counsel for the Corporation, Shri Bhaduri, had appeared in the case. Notice to the Standing Counsel has to be taken to be a notice to the Corporation of the passing of the ex-parte award. The learned Member of the Claims Tribunal totally overlooked the contents of the order sheet of the claim-case in coming to the conclusion that the Corporation, for the First time, derived knowledge of the award only on 24.1.1992. On the state of the above facts, without going into the question whether there was any justification for setting aside the ex-parte award for want of due service of notice, find that this revision deserves to be allowed on the short ground that the application for setting aside the ex-parte award was hopelessly barred by limitation.

4. Consequently, the revision succeeds and is hereby allowed. The impugned order of the Claims Tribunal dated 20.1.1993 is hereby set-aside. In the circumstances, I leave parties to bear their own costs.