

(1992) 09 MP CK 0009

Madhya Pradesh High Court (Gwalior Bench)

Case No: M.A. No. 164 of 1992

Dhani Ram and Another

APPELLANT

Vs

Gurdip Singh and Others

RESPONDENT

Date of Decision: Sept. 1, 1992

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (1993) ACJ 49

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

Bench: Single Bench

Advocate: R.D. Goyal, for the Appellant; V.K. Sharma, for the Respondent

Final Decision: Allowed

Judgement

T.N. Singh, J.

Appeal allowed for reasons to follow. The order impugned is passed by Motor Accidents Claims Tribunal dismissing the application of the appellant-applicant for restoring to file his application u/s 166 of the Motor Vehicles Act, 1988, dismissed for default. The impugned order justifies the earlier order on the ground that steps for filing P.F. had not been taken and there was no reasonable ground, therefore, to set aside the ex parte dismissal of the claim petition. Such a view is not tenable because of the holding of this Court in Shahzad Khan 1986 MPWN 28. It has been held that for ensuring service on non applicants, when a petition is made for compensation for death occurring in motor accident it shall be duty of the Claims Tribunal to do the needful. Non-applicants are to be served anyhow and steps for process etc. are not to be taken by the applicant-claimants. Therefore, there could not be any lapse or default on the part of claimants-appellants. They had not sinned initially and that was not compounded at any time subsequently.

2. The impugned order is, therefore, set aside. The Claims Tribunal is directed to restore to file the claim petition and to hear and dispose of the same in accordance

with law. Mr. V.K. Sharma, who appears for respondent No. 3, makes a reasonable prayer. He contends that when such restoration is made, eventual liability in regard to interest of the non-applicants is to be taken care of. He is correct because in Sanjay Kumar v. Munnalal 1992 (I) MPJR 89, I have taken the view on remanding for retrial a claim petition that all interest due payable under the Act for the interim period of the default of the claimants, liability would not be saddled on the non-applicants. That question, therefore, shall also be examined when finally award is passed by the Tribunal.