

IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH

DATED THIS THE 20TH DAY OF JANUARY, 2016

BEFORE

THE HON'BLE MR. JUSTICE B.MANOHAR

M.F.A.No.200369/2015 (MV)

BETWEEN:

Vani D/o Shivashankar Akki

Age: 20 years, Occ: Student, R/o: Bijjaragi

Tal. & Dist. Bijapur – 586 103

... Appellant

(By Sri Bapugouda Siddappa, Adv.)

AND:

1. S.S.Pattanshetty

Age: Major, Occ: Business, R/o: Bijjaragi

Tal. & Dist. Bijapur – 586 103

2. The Branch Manager

The Oriental Insurance Company Ltd.

APMC Yard, Bijapur – 586 101

3. Shivanand

S/o Somaning Pattanshetty

Age: Major, Occ: Driver, R/o: Bijjaragi

Tal. & Dist. Bijapur – 586 103

... Respondents

(Smt. Sumitra H., Adv. for R2,

Notice to R1 & R3 dispensed with V/O Dtd. 03.06.2015)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and award dated 07.10.2004 passed in MVC No.593/1999 on the file of the Motor Accident Claims Tribunal No.VI, Bijapur at Bijapur, partly allowing the claim petition and seeking enhancement of compensation.

This appeal coming on for orders this day, the Court delivered the following:

JUDGMENT

Appellant is the claimant, being not satisfied with the quantum of compensation awarded in the judgment and award dated 07.10.2004 passed in MVC No.593/1999 by the Motor Accident Claims Tribunal No-VI, Bijapur has filed this appeal, seeking for enhancement of compensation.

2. There is an inordinate delay of 3701 days in filing the appeal. The appellant has filed I.A.No.1/2015 for condonation of delay. In paragraphs 4 to 6 of the affidavit filed in support of the application, the appellant has explained the delay, which reads as under:

“4) At the time of Disposal of the Claim Petition the Appellant was minor at the age of 10 Years. After the attaining the majority I have collecting the information from the Advocate and some other persons. After the Disposal of the Claim Petition the Trial Court Advocate has not properly advising to me.

5) My parents are illiterate they were unaware of the legal proceedings. My parents also collecting the information from the third person. After the Disposal of the Claim Petition. You have filed Appeal Before the Hon’ble High Court for getting the higher compensation.

6) At the time of filing of the Claim Petition the Appellant was minor at the Age of 6 Years. The Appellant was major on the year 2012. After the majority she was aware of that the Appeal provision in the eyes of law for getting higher compensation.”

3. The advocate appearing for the contesting respondents contended that the inordinate delay in filing the appeal cannot be condoned. Even on the date of the accident, the claimant was minor. Nothing prevented her to file an appeal immediately after passing of the judgment and award. The issue settled about 12 years back cannot be reopened at this length of time and sought for dismissal of the appeal.

4. I have carefully considered the arguments addressed by the learned advocates appearing for the parties and perused the judgment and award passed by the Tribunal,

the application I.A.No.1/2015 and also the affidavit filed in support of the application.

5. The reasons assigned in paragraphs 4 to 6 of the affidavit does not constitute a sufficient ground to condone the inordinate delay. The appellant is fully aware of the judgment and award passed by the Tribunal and also received the compensation amount of Rs.1,62,000/- for the fracture of left leg and disfigurement. The aggrieved person has to prefer an appeal within a reasonable period of passing of the judgment and award. In the instant case, the accident occurred in the year 1998, the claim petition has been filed in the year 1999 and the judgment and award has been passed on 07.10.2004 awarding compensation of Rs.1,62,000/-. Hence, the inordinate delay of more than 12 years cannot be condoned. The reasons assigned by the appellant cannot be accepted. Accordingly, I pass the following:

ORDER

I.A.No.1/2015 filed for condonation of delay is dismissed. Consequently, the appeal is also dismissed.

Sd/-
JUDGE

LG