

# **SUPREME COURT OF INDIA**

Ram Kishan & Ors.

Vs.

U. P. State Roadways Transport Corporation & Ors.

Civil Appeal No. 2441 of 1993

(Kuldip Singh, J. N. P. Singh JJ)

23.04.1993

## **ORDER**

**Kuldip Singh, J.**

1. Special leave granted.

2. Ram Kishan and his wife Prabhawati are the appellants before us. Their son Hem Chand died as a result of accident on March 2, 1974. The boy was run over by bus No. UTB-109 belonging to U.P. State Roadways Transport Corporation. It was being driven by one Bhagwat Prasad Misra. The driver was prosecuted under Sections 279/304-A IPC and was convicted by the court. The appellants filed an application for compensation along with an application for condonation of delay before the Motor Accident Claims Tribunal, Jaunpur in the year 1977. By its order dated August 4, 1978 the Tribunal rejected the prayer for condonation of delay and dismissed the application as time-barred. The first appeal filed by the appellants before the High Court was dismissed on December 7, 1981.

3. Appellant Ram Kishan, in support of the application for condonation of delay before the Tribunal, stated that his young son having died in the accident, he was deeply bereaved and was not in his senses. He further stated that he did not know the court procedure and as such he consulted one Ram Lakhan Upadhyaya, advocate who advised him that an application for compensation before the Motor Accident Claims Tribunal could be filed after the decision in the criminal trial against the accused-driver. The criminal trial concluded on November 28, 1977 and thereafter he filed the application before the Motor Accident Claims Tribunal in December 1977.

4. Although the story put forward by the appellants, for not filing the application for compensation within the period of limitation, does not sound convincing but keeping in view the facts and circumstances of this case, especially the extreme shock under which the appellants were labouring, we are of the view that the Motor Accident Claims Tribunal should have condoned the delay and decided the claim on merits.

5. We allow the appeal, set aside the judgment of the Tribunal and of the High Court, condone the delay in filing the application for compensation before the Motor Accident Claims Tribunal, Jaunpur and remand the case to the Tribunal for decision on merits after hearing the parties in accordance with law. The Tribunal shall decide the application expeditiously and preferably within six months from the date of the receipt of this order. No costs.