M/S. PUROHIT AND COMPANY

v.

KHATOONBEE AND ANR.

(Civil Appeal No. 2555 of 2017)

FEBRUARY 09, 2017

[JAGDISH SINGH KHEHAR, CJI, N. V. RAMANA AND DR. D. Y. CHANDRACHUD, JJ.]

Delay / Laches:

Delay of 28 years – In filing claim petition u/s. 166 of Motor Vehicles Act, 1988 – Entertained by courts below holding that the 1988 Act does not provide limitation for raising claim for compensation – On appeal, held: Even though no period of limitation is prescribed under 1988 Act, claim can be raised and can be considered to be genuine, so long it is a live and surviving claim – Claim can be raised only within reasonable time – The question of reasonability would depend on the facts and circumstances of each case – In the present case, delay of 28 years cannot be considered as prima facie *reasonable period – The claim, in the facts and circumstances of the case, was stale and ought to have been treated as dead claim – Motor Vehicles Act, 1988 – s. 166(3).*

Allowing the appeal, the Court

HELD: 1.1 A perusal of the provision of Section 110A of Motor Vehicles Act, 1939 reveals that a period of limitation of six months (from the date of occurrence of the accident) was provided for, to raise a claim for compensation. In the successor legislation, namely, the Motor Vehicles Act, 1988, Section 166(3), as originally enacted, also provided for limitation of a period of six months for filing a claim petition. However, on this occasion, a bar was introduced for entertaining a claim petition, arising out of a motor accident after twelve months (from the date of occurrence of the accident). Obviously, the period of limitation provided for through Section 166(3) of the 1988 Act, could be relaxed upto twelve months, by demonstrating that there was sufficient cause for such delay. The period of limitation provided under Section 166(3) aforementioned was completely done away

A with, with effect from 14.11.1994, as Section 166(3) came to be deleted, from the Motor Vehicles Act, 1988. [Paras 4, 5, 6] [5-C-E; 6-F-H]

1.2 Even though no period of limitation remains prescribed, after the amendment of Section 166 of the Motor Vehicles Act, B 1988, whereby sub-Section (3) of Section 166 came to be deleted yet it would be imperative to determine, whether at the juncture when the claimant approached the Motor Accident Claims Tribunal, the claim was a live and surviving claim. A claim raised before the Motor Accident Claims Tribunal, can be considered to be genuine, so long as it is a live and surviving claim. It is not C as if, it can be open to all and sundry, to approach a Motor Accident Claims Tribunal, to raise a claim for compensation, at any juncture, after the accident had taken place. The individual concerned, must approach the Tribunal within a reasonable time. [Paras 12 and 13] [15-D, G-H]

D 1.3 The question of reasonability would naturally depend on the facts and circumstances of each case. A delay of 28 years, even without reference to any other fact, cannot be considered as a *prima facie* reasonable period, for approaching the Motor Accident Claims Tribunal. The justification expressed at the E behest of the respondents, for approaching the Tribunal, after a period of 28 years, that the Petitioners are poor person and they have no knowledge about the Law, cannot be accepted. Undoubtedly, the claim in the facts and circumstances of the instant case, was stale, and ought to have been treated as a dead claim, at the point of time, when the respondents approached the F Tribunal by filing a claim petition, on 23.02.2005. Thus, the claim raised by the respondents before the Motor Accident Claims Tribunal, was not a surviving claim, when the respondents approached the said Tribunal. [Paras 14, 15, 16] [16-A-B, D-E]

Corporation Bank v. Navin J. Shah (2000) 2 SCC 628; G *Haryana State Coop. Land Development Bank v. Neelam* (2005) 5 SCC 91 : [2005] 2 SCR 424 – relied on.

Dhannalal v. D.P.Vijayvargiya (1996) 4 SCC 652:[1996] 2 Suppl. SCR 417; *The New India*

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Assurance Co.Ltd. v. C. Padma **(2003) 7 SCC 713:[2003] 3 Suppl. SCR 677 – distinguished.**

2. The appellant was directed to deposit a sum of Rs.25,000/- towards litigation expenses, payable to the respondents. The aforesaid deposit was actually made since the deposit was made, and was payable to the respondents, it is just and appropriate, in the facts and circumstances of this case, to direct the Registry of this Court, to transmit the aforesaid amount of Rs.25,000/- to the respondents, by way of a cheque, drawn in the name of respondent No.1. [Para 17] [16-F-G]

Case Law Reference

[1996] 2 Suppl. SCR 417	**distinguished**	**Para 7**
[2003] 3 Suppl. SCR 677	**distinguished**	**Para 7**
(2000) 2 SCC 628	**relied on**	**Para 10**
[2005] 2 SCR 424	**relied on**	**Para 11**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2555 of2017

From the Judgment and Order dated 07.07.2015 of the High Court of Bombay at Nagpur Bench, Nagpur in Writ Petition No. 3647 of 2007.

Ankur Mittal, Adv., for the Appellant.

Ms. Anagha S. Desai, Adv., for the Respondents.

The Judgment of the Court was delivered by

JAGDISH SINGH KHEHAR, CJI 1. Heard learned counsel for the rival parties.

2. The daughter of the respondents died in a motor accident on 02.02.1977. A claim petition was filed, under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the 1988 Act'), seeking compensation on account of the motor accident, wherein the respondents' daughter had died, on 23.02.2005 i.e., after a period of more than 28 years. The Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') entertained the above claim. A prayer made to reject the claim petition, for the reason, that the said claim had been raised 28 years after the accident in question, was rejected. It is in these circumstances, that M/s Purohit and Company (the petitioner herein) approached the High Court, wherein, the matter was re-adjudicated.

A Again, a prayer was made at the hands of the petitioner, that the claim had been made belatedly, and was not a surviving claim. The High Court, upheld the justiciability of the claim petition, on the short ground, that no period of limitation had been provided for raising a claim for compensation, under the Motor Vehicles Act, 1988. The judgment rendered by the High Court on 07.07.2015, has been assailed by M/s Purohit & Company through the instant petition for special leave to appeal.

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3. Leave granted.

4. While raising a challenge to the impugned judgment, in the first C instance, a reference was made to Section 110-A of the Motor Vehicles Act, 1939 (hereinafter referred to as 'the 1939 Act'), in order to demonstrate, that a period of limitation, at the time, was provided for, referable to the date when the accident had taken place. Section 110A aforementioned is being extracted hereunder:

D "110-A. Application for compensation.- (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 110 may be made-

(a) by the person who has sustained the injury; or

(aa) by the owner of the property; or

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(b) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(c) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

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Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

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(2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particulars as may be prescribed.

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Provided that where any claim for compensation under Section 92-A is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant;

(3) No application for such compensation shall be entertained unless it is made within six months of the occurrence of the accident:

Provided that the Claims Tribunal may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from making the application in time."

(emphasis is ours)

A perusal of the provision of Section 110A of the 1939 Act, extracted above, reveals, that a period of limitation of six months (from the date of occurrence of the accident) was provided for, to raise a claim for compensation.

5. In the successor legislation, namely, the Motor Vehicles Act, 1988, Section 166(3), as originally enacted, also provided for limitation of a period of six months for filing a claim petition. Section 166 aforementioned is extracted hereunder:

"166.Application for compensation.—(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

A (2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

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Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

C (3) No application for such compensation shall be entertained unless it is made within six months of the occurrence of the accident:

Provided that the Claims Tribunal may entertain the application after the expiry of the said period of six months but not later than

D twelve months, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act.

E (emphasis is ours)

A perusal of the original provision of Section 166 of the 1988 Act, extracted above reveals, that once again a period of limitation of six months (from the date of occurrence of the accident) was provided for. However, on this occasion, a bar was introduced for entertaining a claim

F petition, arising out of a motor accident after twelve months (from the date of occurrence of the accident). Obviously, the period of limitation provided for through Section 166(3) of the 1988 Act, could be relaxed upto twelve months, by demonstrating that there was sufficient cause for such delay.

G 6. It would however, be pertinent to mention, that the period of limitation provided under Section 166(3) aforementioned was completely done away with, with effect from 14.11.1994, as Section 166(3) came to be deleted, from the Motor Vehicles Act, 1988. The question which has arisen for consideration, in the instant appeal, is the consequence of the omission of sub-Section (3) of Section 166 of the 1988 Act. Does the

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above omission have the effect of allowing a claimant, to file a claim application, at any time, and whenever he chooses? Even after a decade!

7. The contention of the respondents-claimants to overcome the period of limitation was based on two judgments. Firstly, it is based on the judgment in Dhannalal vs. D.P.Vijayvargiya, (1996) 4 SCC 652, wherein, this Court had held as under:

> "7.In this background, now it has to be examined as to what is the effect of omission of sub-section (3) of Section 166 of the Act. From the Amending Act it does not appear that the said sub-section (3) has been deleted retrospectively. But at the sametime, there is nothing in the Amending Act to show that benefit of deletion of sub-section (3) of Section 166 is not to be extended to pending claim petitions where a plea of limitation has been raised. The effect of deletion of sub-section (3) from Section 166 of the Act can be tested by an illustration. Suppose an accident had taken place two years before 14.11.1994 when sub-section (3) was omitted from Section 166. For one reason or the other no claim petition had been filed by the victim or the heirs of the victim till 14.11.1994. Can a claim petition be not filed after 14.11.1994 in respect of such accident? Whether a claim petition filed after 14.11.1994 can be rejected by the Tribunal on the ground of limitation saying that the period of twelve months which had been prescribed when sub-section (3) of Section 166 was in force having expired the right to prefer the claim petition had been extinguished and shall not be revived after deletion of sub-section (3) of Section 166 w.e.f. 14.11.1994? According to us, the answer should be in negative. When sub-section (3) of Section 166 has been omitted, then the Tribunal has to entertain a claim petition without taking note of the date on which such accident had taken place. The claim petitions cannot be thrown out on the ground that such claim petitions were barred by time when sub-section (3) of Section 166 was in force. It need not be impressed that Parliament from time to time has introduced amendments in the old Act as well as in the new Act in order to protect the interests of the victims of the accidents and their heirs if the victims die. One such amendment has been introduced in the Act by the aforesaid Amendment Act 54 of 1994 by substituting sub-section (6) of Section 158 which provides:

A "158. (6)As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer in charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer."

C In view of sub-section (6) of Section 158 of the Act the officer in-charge of the police station is enjoined to forward a copy of information/report regarding the accident to the Tribunal having jurisdiction. A copy thereof has also to be forwarded to the insurer concerned. it also requires that where a copy is made available to the owner of the vehicle, he shall within thirty days of receipt of such copy forward the same to the Claims Tribunal and insurer. In this background, the deletion of sub-section (3) from Section 166 should be given full effect so that the object of deletion of the said section by Parliament is not defeated. If a victim of the accident or heirs of the deceased victim can prefer claim for compensation although not being preferred earlier because of the expiry of the period of limitation prescribed, how the victim or the heirs of the deceased shall be in a worse position if the question of condonation of delay in filing the claim petition is pending either before the Tribunal, the High Court or the Supreme Court. The present appeal is one such case. The appellant has been pursuing from the Tribunal to this Court. His right to get compensation in connection with the accident in question is being resisted by the respondents on the ground of delay in filling the same. If he had not filed any petition for claim till 14.11.1994 in respect of the accident which took place on 4.12.1990, view of the Amending Act he became entitled to file such claim petition, the period of limitation having been deleted, the claim petition which has been filed and is being pursued upto this Court cannot be thrown out on the ground of limitation."

(emphasis is ours)

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The second judgment on which reliance was placed, was The New India Assurance Co.Ltd. vs. C.Padma, (2003) 7 SCC 713, wherein also, the matter was adjudicated on the same lines by observing as under:

> "10. The ratio laid down in Dhannalal's case (supra) applies with full force to the facts of the present case. When the claim petition was filed sub-section (3) of Section 166 had been omitted. Thus, the Tribunal was bound to entertain the claim petition without taking note of the date on which the accident took place. Faced with this situation, Mr. Kapoor submitted that Dhannalal's case does not consider Section 6-A of the General Clauses Act and therefore, needs to be reconsidered. We are unable to accept the submission. Section 6-A of the General Clauses Act, undoubtedly, provides that the repeal of a provision will not affect the continuance of the enactment so repealed and in operation at the time of repeal. However, this is subject to "unless a different intention appears". In Dhannalal's case the reason for the deletion of sub-section (3) of Section 166 has been set out. It is noted that Parliament realized the grave injustice and injury caused to heirs and legal representatives of the victims of accidents if the claim petition was rejected only on the ground of limitation. Thus "the different intention" clearly appears and Section 6A of the General Clauses Act would not apply.
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> 11. Mr. Kapoor, learned counsel for the appellant, has placed reliance on the decision rendered by this Court in Vinod Gurudas Raikar vs. National Insurance Co. Ltd., AIR 1991 SC 2156. The facts of that case were that the appellant was injured in an accident, which took place on 22.1.1989. The claim petition of the appellant was filed on 15.3.1990 with a prayer for condonation of delay. The Tribunal held that in view of sub-section (3) of Section 166 of the new Motor Vehicles Act, which came into force on 1.7.1989, the delay of more than six months could not be condoned. In the facts and circumstances of that case this Court held that the case of the appellant was covered by the new Act and the delay for a longer period than six months could not be condoned. In our view, the facts of the case in Vinod Gurudas (supra) are different from the facts of the present case, as noticed above.

A 12. The learned counsel for the appellant, next contended that since no period of limitation has been prescribed by the legislature, Article 137 of the Limitation Act may be invoked, otherwise, according to him, stale claims would be encouraged leading to multiplicity of litigation for non-prescribing the period of limitation. We are unable to countenance the contention of the appellant for more than one reason. Firstly, such an Act like the Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, if otherwise the claim is found genuine. Secondly, it is a self contained Act which prescribes the mode of filing the application, procedure to be followed and award to be made. The Parliament, in its wisdom, realised the grave injustice and injury being caused to the heirs and legal representatives of the victims who suffer bodily injuries/die in accidents, by rejecting their claim petitions at the threshold on the ground of limitation, and purposely deleted sub-section (3) of Section 166, which provided the period of limitation for filing the claim petitions and this being the intendment of the legislature to give effective relief to the victims and the families of the motor accidents untrammeled by the technicalities of the limitation, invoking of Article 137 of the Limitation Act would defeat the intendment of the Legislature."

(emphasis is ours)

Based on the aforesaid determination rendered by this Court, the High Court, by its impugned order dated 07.07.2015, arrived at the conclusion, that there being no period of limitation at the juncture, when the claim petition was filed on 23.02.2005, the same could not have been rejected, merely for reason of delay.

8. Dissatisfied with the impugned order passed by the High Court on 07.07.2015, M/s Purohit and Company has approached this Court, by filing the instant appeal.

9. The solitary contention advanced at the hands of the learned counsel for the appellant was, that even though there may no longer be a defined period of limitation, for approaching the Motor Accident Claims Tribunal, to raise a claim for compensation (under the provisions of the Motor Vehicles Act, 1988), yet a claimant must approach a Court, for raising such a claim within a reasonable time. It was submitted, that

after a period of time, the claim would be stale and will have to be treated as a dead claim. Such a claim, it was submitted, could not be treated as a surviving claim. To demonstrate situations when an accident's claim would no longer be considered to be a surviving claim, illustratively it was submitted, that in a given case when the evidence to establish the rival claims, would not be available, for the mere reason of lapse of time. Either, the witnesses would not be available, or accessible, on account of lapse of time, resulting in lapse of memory and a situation in which truthful evidence can no longer be recorded. The contention was, that in such background, it was imperative for the concerned Court, to determine whether, in the facts and circumstances of a particular case, the claim could be considered as a surviving claim, on the date when the claim petition was filed before the Motor Accident Claims Tribunal.

10. In support of the contention advanced at the hands of the learned counsel for the appellant, as has been noticed in the foregoing paragraph, learned counsel invited our attention to Corporation Bank vs. Navin J.Shah, (2000) 2 SCC 628, wherein a claim for compensation had been raised under the Consumer Protection Act, 1986, wherein also, there was no period of limitation prescribed (at the time, when the claim was raised). Dealing with the question in hand, this Court had recorded the following observations:

> "12. We may further notice that there is another strong reason as to why the claim made by the respondent should not have been granted. The transactions in question took place in the years 1979 and 1981. The difficulties in realisation of the amounts due from the consignee also became clear at the time when the claim was made before the Corporation and the claim had been made as early as on 19-12-1982. The petition before the Commission was filed on 25-9-1992 that is clearly a decade after a claim had been made before the Corporation. A claim could not havebeen filed by the respondent at this distance of time. Indeed at the relevant time there was no period of limitation under the Consumer Protection Act to prefer a claim before the Commission but that does not mean that the claim could be made even after an unreasonably long delay. The Commission has rejected this contention by a wholly wrong approach in taking into consideration that the foreign exchange payable to Reserve Bank of India was still due and, therefore, the claim is alive.

A The claim of the respondent is from the Bank. At any rate, as stated earlier, when the claim was made for indemnifying the losses suffered from the Corporation, it was clear to the parties about the futility of awaiting any longer for collecting such amounts from the foreign bank. In those circumstances, the claim, if at all was to be made, ought to have been made within a reasonable time thereafter. What is reasonable time to lay a claim depends upon the facts of each case. In the legislative wisdom, three years' period has been prescribed as the reasonable time under the Limitation Act to lay a claim for money. We think,that period should be the appropriate standard adopted for computing reasonable time to raise a claim in a matter of this nature. For this reason also we find that the claim made by the respondent ought to have been rejected by the Commission."

(emphasis is ours)

It would be pertinent to mention, that the claim raised under the Consumer Protection Act, in the above judgment, was delayed by a period of 10 years, and even though, no period of limitation was prescribed, this Court held, that the same was not maintainable.

11. Reliance was also placed on Haryana State Coop. Land Development Bank Vs. Neelam (2005) 5 SCC 91, wherein, this Court held as under:

"17. In Nedungadi Bank Ltd.(2001) 6 SCC 222, a Bench of this Court, where S.Saghir Ahmad was a member [His Lordship was also a member in Ajaib Singh (supra), opined : (SCC pp.459-60, para 6)

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-

matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made."

18. It is trite that the courts and tribunals having plenary jurisdiction have discretionary power to grant an appropriate relief to the parties. The aim and object of the Industrial Disputes Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct a workman would automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to the industrial proceedings. A person in certain situation may even be held to be bound by the doctrine of acceptance sub silentio. The respondent herein did not raise any industrial dispute questioning the termination of her services within a reasonable time. She even accepted an alternative employment and has been continuing therein from 10.8.1988. In her replication filed before the Presiding Officer of the Labour Court while traversing the plea raised by the appellant herein that she is gainfully employed in HUDA with effect from 10.8.1988 and her services had been regularized therein, it was averred :

"6. The applicant workman had already given replication to the A.L.C.-cum- Conciliation Officer, stating therein that she was engaged by HUDA from 10.8.1988 as clerk-cum-typist on daily wage basis. The applicant workman has the right to come to the service of the management and she is interested to join them."

19. She, therefore, did not deny or dispute that she had been regularly employed or her services had been regularized. She merely exercised her right to join the service of the appellant.

20. It is true that the respondent had filed a writ petition within a period of three years but indisputably the same was filed only after the other workmen obtained the same relief from the Labour Court in a reference made in that behalf by the State. Evidently

in the writ petition she was not in a position to establish her legal right so as to obtain a writ of or in the nature of mandamus directing the appellant herein to reinstate her in service. She was advised to withdraw the writ petition presumably because she would not have obtained any relief in the said proceeding. Even the High Court could have dismissed the writ petition on the ground of delay or could have otherwise refused to exercise its discretionary jurisdiction. The conduct of the respondent in approaching the Labour Court after more than seven years had, therefore, been considered to be a relevant factor by the Labour Court for refusing to grant any relief to her. Such a consideration on the part of the Labour Court cannot be said to be an irrelevant one. The Labour Court in the aforementioned situation cannot be said to have exercised its discretionary jurisdiction injudiciously, arbitrarily and capriciously warranting interference at the hands of the High Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution.

21. The matter might have been different had the respondent been appointed by the appellant in a permanent vacancy.

22. Both HUDA and the appellant are statutory organizations. The service of the respondent with the Appellant was an ad hoc one. She served the appellant only for a period of one year three months; whereas she had been serving HUDA for more than sixteen years. Even if she is directed to be reinstated in the services of the appellant without back wages as was directed by the High Court, the same would remain an ad hoc one and, thus, her services can be terminated upon compliance of the provisions of the Industrial Disputes Act. It is also relevant to note that there may or may not now be any regular vacancy with the appellant-Bank. We have noticed hereinbefore that in the year 1996, the vacancies had been filled up and a third party right had been created. It has not been pointed out to us that there exists a vacancy. Having considered the equities between the parties, we are of the opinion that it was not a fit case where the High Court should have interfered with the discretionary jurisdiction exercised by the Labour Court.

23. For the reasons aforementioned, the impugned judgment cannot be sustained which is set aside accordingly. This appeal

is allowed. However, in the facts and circumstances of the case, there shall be no order as to costs."

(emphasis is ours)

It would be relevant to mention, that the above judgment was rendered in a matter, where the challenge was raised under the provisions of the Industrial Disputes Act, 1947, wherein also no period of limitation is prescribed to approach the Industrial Tribunal. Despite the above, this Court arrived at the conclusion, that a claim raised after a period of 7 years, was not a surviving claim. And therefore, the claim petition was held to be not maintainable.

12. Drawing an analogy to the judgments rendered under the Consumer Protection Act, 1986, as also, under the Industrial Disputes Act, 1947, it was the submission of the learned counsel for the appellant, that even though no period of limitation remains prescribed, after the amendment of Section 166 of the Motor Vehicles Act, 1988, whereby sub-Section (3) of Section 166 came to be deleted (with effect from 14.11.1994), yet it would be imperative to determine, whether at the juncture when the claimant approached the Motor Accident Claims Tribunal, the claim was a live and surviving claim.

13. We are satisfied, that the submission advanced at the hands of the learned counsel for the appellant merits acceptance. The judgments on which the High Court had relied, and on which the respondents have emphasised, in our considered view, are not an impediment, to the acceptance of the submission canvassed on behalf of the appellant. We say so, because in Dhannalal's case (supra) the question of inordinate delay in approaching the Motor Accident Claims Tribunal, was not considered. In the second judgment in C.Padma's case (supra), it was considered. And in the C.Padma's case, the first conclusion drawn in paragraph 12 was "... if otherwise the claim is found genuine...". We are of the considered view, that a claim raised before the Motor Accident Claims Tribunal, can be considered to be genuine, so long as it is a live and surviving claim. We are satisfied in accepting the declared position of law, expressed in the judgments relied upon by the learned counsel for the appellant. It is not as if, it can be open to all and sundry, to approach a Motor Accident Claims Tribunal, to raise a claim for compensation, at any juncture, after the accident had taken place. The individual concerned, must approach the Tribunal within a reasonable time.

A 14. The question of reasonability would naturally depend on the facts and circumstances of each case. We are however, satisfied, that a delay of 28 years, even without reference to any other fact, cannot be considered as a *prima facie* reasonable period, for approaching the Motor Accident Claims Tribunal. The only justification indicated by the respondents, for initiating proceedings after a lapse of 28 years, emerges from paragraph 4, contained in the application for condonation of delay, filed by the claimants, before the Tribunal. Paragraph 4 aforementioned is extracted hereunder:

> "4. That the Petitioners are poor person and they have no knowledge about the Law. Also the Respondent has not pay the single pie towards any compensation."

15. Having given our thoughtful consideration to the justification expressed at the behest of the respondents, for approaching the Tribunal, after a period of 28 years, we are of the view, that the explanation tendered, cannot be accepted. Undoubtedly, the claim (pertaining to an accident which had occurred on 02.02.1977), in the facts and circumstances of the instant case, was stale, and ought to have been treated as a dead claim, at the point of time, when the respondents approached the Tribunal by filing a claim petition, on 23.02.2005.

16. In view of the reasons recorded hereinabove, we hereby set aside the impugned order dated 07.07.2015, and allow the instant appeal, by holding, that the claim raised by the respondents before the Motor Accident Claims Tribunal, was not a surviving claim, when the respondents approached the said Tribunal.

17. Before concluding this order, it is relevant to notice, that by a motion bench order dated 14.09.2015, the appellant herein was directed to deposit a sum of Rs.25,000/- towards litigation expenses, payable to the respondents. The aforesaid deposit was actually made (as has been noticed, in the motion bench order, dated 12.07.2016). Since the deposit was made, and was payable to the respondents, we consider it just and appropriate, in the facts and circumstances of this case, to direct the Registry of this Court, to transmit the aforesaid amount of Rs.25,000/- to the respondents, by way of a cheque, drawn in the name of respondent No.1.

Kalpana K. Tripathy Appeal allowed.