

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.A.(C) No. 1248 of 2014

1. Madhusudan Kumar, S/o. Late Malki Sidak, Aged About 54 Years, R/o Qtr. No. 1/A, Road No. 10, Sector-6, Bhilai Nagar, Tah. and Distt. Durg (C.G.)

---- Appellant

Versus

1. Baby Kutti, S/o. Vargis Christian, Aged About 58 Years, R/o B.S.B.K. Company Pvt. Ltd., Nandini Road, Bhilai, Tah. and Distt. Durg C.G.
2. M/s. B.S.B.K. Pvt. Ltd. B.S.B.K. House Nandini Road, Bhilai, Tah. and Distt. Durg C.G.
3. Divisional Manager, New India Insurance Company Limited, Power House, Bhilai, Tah. and Distt. Durg C.G.

---- Respondents

For Appellant	:	Mr. Amiyakant Tiwari, Advocate.
For Respondent No.1 & 2	:	Mr. Vipra Sen Agrawal, Advocate
For Respondent No.3	:	None present.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27/08/2015

1. Challenge in this appeal is to the award dated, 05.08.2014, passed in Motor Accident Claim Case No.80/2013, passed by the VIth Additional Motor Accidents Claims Tribunal, Durg, District Durg (C.G.).

2. Briefly stated facts of the case are that a claim petition was filed by the appellant, Madhusudan Kumar on account of the injuries sustained by him in the road accident occurred on 27.04.2010. It was stated that during his duty hours, the appellant was dashed by a jeep bearing registration No. C.G.-07M-1668, which was driven by the original non-applicant No.1, Baby Kutti. It was stated that the appellant was admitted to the hospital from 27.04.2010 to 12.05.2010. Consequently, the claim petition was preferred before the Claims Tribunal for compensation against the driver, owner and the insurer of the offending vehicle.
3. Learned counsel for the appellant submits that the claim petition is dismissed on the ground that no evidence was adduced. He further submits that the claimant may be given one opportunity to led evidence taking into the benevolent provisions of the Motor Vehicle Act.
4. I have gone through the order. The order shows, that the case was fixed for evidence on 04.01.2013 and thereafter, when it was fixed for evidence on 06.08.2013, 17.09.2013 and 22.04.2014, no evidence was adduced on behalf of the appellant, consequently right to led evidence of the claimant, was closed.
5. Be that as it may on the given dates, the evidence could not be adduced, however, considering the fact that the petition was filed by the claimant and taking into benevolent provisions of the Motor

Vehicle Act, I deem it proper to provide an opportunity to the appellant to adduce evidence.

6. Consequently, the case is remanded back before the learned Claims tribunal to give the opportunity of evidence to the appellant taking into account the benevolent object of the Motor Vehicle Act. The claimant shall be entitled to summon the witness if any to make submission in support of the claimant and no adjournment shall be granted to the claimant on any frivolous grounds. Consequently, the order of dismissal of the claim, is set-aside.
7. It is directed that the parties shall appear before the Claims Tribunal on 12th October, 2015. The learned Claims Tribunal shall further obliged to decide the matter afresh within a further period of 6 months from 12.10.2015.
8. With the aforesaid direction, the appeal stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge