

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 866 of 2014

1. Smt. Indramani W/o Late Jagdish Prasad Rajwade Aged About 22 Years R/o Sohagpur, P.S. Vishrampur, Tah. Surajpur, Distt. Surajpur C.G.
2. Chandrashekhar S/o Late Jagdish Prasad Rajwade Aged About 6 Years Minor Through legal guardian mother Smt. Indramani W/o Late Jagdish Prasad Rajwade, R/o Sohagpur, P.S. Vishrampur, Tah. Surajpur, Distt. Surajpur C.G.

---- Appellants

Versus

1. United India Insurance Company Limited Through- The Branch Manager, Branch Office- Bramha Road, Ambikapur, Distt. Surguja C.G.
2. Sakhan Ram S/o Manraj Rajwade R/o Sohagpur, Post- Karanji, Distt. Surajpur C.G.

---- Respondents

For appellants – Shri D.N. Prajapati, Advocate.
For Respondent No.1 – Shri Dashrath Gupta, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

29/09/2015

1. This instant appeal is against the order dated 19/06/2014 passed in Claim Case No.296/2011 by the Motor Accident Claims Tribunal, Surajpur whereby claim petition was dismissed.
2. Facts leads to filing of this case that one Jagdish Prasad Rajwade while going on a motorcycle which was owned by Sakhan Ram met with an accident. It was contended that while they were travelling they bumped into the stone which was lying on the road, consequently fell down and

ultimately Jagdish Prasad Rajwade succumbed to the injuries. Admittedly in this case motorcycle was of Sakhan Ram who was arrayed as non-applicant No.2 and claim petition was preferred under section 163-A of the Motor Vehicles Act. Learned tribunal after adjudication of the case came to a finding that motorcycle was borrowed from the owner of the motorcycle non-applicant No.2 namely Sakhan Ram and Jagdish Prasad Rajwade the deceased while driving such motorcycle met with an accident thereby he stepped into the shoes of the owner. Consequently, on the basis of facts compensation cannot be claimed of his own fault, the petition was dismissed.

3. Having regard to the fact that object of the Motor Vehicles Act is benevolent legislation. Taking into facts of this case in the considered opinion of this court ends of justice will sub serve if appellants are granted liberty to withdraw this appeal in terms of prayer made and prefer petition under Section 166 of the Motor Vehicles Act before the court below if so advised. Consequently, it is ordered that this appeal is dismissed as withdrawn and the appellants shall be at liberty to prefer petition under Section 166 of the Motor Vehicles Act act if so advised which shall be decided on its own merit within further period of six months.

Sd/-
(Goutam Bhaduri)
JUDGE