

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.664 of 2015**

1. Santram Dhruv S/o Late Brijlal Dhruv Aged About 43 Years R/o House No. 196, Vaishnav Colony, Ward No. 02, Balodabazar, Distt. Balodabazar- Bhatapara, (Chhattisgarh).....Claimant

---- Petitioner

Versus

1. Kanwaljeet Singh S/o Late Pradyuman Aged About 61 Years Occupation Workshop, R/o 272, Shyamnagar, Polsay Para, P. S. City Kotwali, Durg, Tahsil & Distt. Durg, (Chhattisgarh) (Vehicle Owner & Vehicle Driver Vehicle No. C.G.07.MA/6751).....Owner
2. Manager- Future General Insurance Limited Address- Office No. 10 First Floor, Maruti Business Park, Thakur Pyare Lal Ward, Raipur (Chhattisgarh) (Insurance Company Of Offending Vehicle No. C. G. 07. M A/ 6751)Insurer

---- Respondents

Shri Arvind Dubey, Advocate for the petitioner.
 Shri Rohitashva Singh, Advocate for respondent 2.
 None for respondent 1 though served.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**Order On Board****21.12.2015**

1. Heard.
2. Brief facts for disposal of the instant writ petition are that Claim Case No. 55/2013 (Santram Dhruv Vs. Kanwaljeet Singh & Anr.) is pending before the 1st Addl. Motor Accident Claims Tribunal, Baloda Bazar (CG). The petitioner is the complainant. On 21.4.2015 and subsequently, on 29.6.2015, the prayer of the applicant/ petitioner for his examination to prove his case has been denied by the Court below and the Court below has held as many opportunities were given to the applicant/petitioner to adduce his evidence and the petitioner was not present for the examination/cross-examination, hence, it held that as

many opportunities were given, now, no further opportunity for the petitioner's evidence may be given and closed the opportunity of the applicant to adduce his evidence after the impugned order. The petitioner had challenged the same by filing the instant Writ Petition (227) and prayed that findings of the Court below be set aside not affording the opportunity to the petitioner to adduce himself as a witness is erroneous and before that order at least last opportunity has to be given. It is further submitted that case of the applicant/petitioner is based solely on the evidence of his statement hence it is prayed that the order passed by the Court below as aforementioned be set aside and the petitioner may be granted an opportunity to examine himself in the matter .

3. No written response/objection has been filed by respondent 2. Respondent 1 is not represented though served as per office note.

4. Heard the parties present before the Court.

5. Learned counsel for the petitioner that as the petitioner granted only 2 opportunities that too on 3rd February, 2015 and 3rd March, 2015 wherein 2 Doctors were examined to support the case of the petitioner and also on 6.1.2014, statement of the applicant/petitioner were started and as there was requirement to prove the document hence examination of the petitioner remained incomplete to prove his case. His statement is necessary in the larger interest of justice, therefore, only one opportunity may be granted to the petitioner to adduce his evidence. It is further submitted that the matter relates to compensation arises out of the motor accident. As the petitioner suffered bodily injury, to compensate he had filed the Claim Case

hence, one opportunity to adduce his evidence before the Tribunal may be granted.

6. On the other hand, learned counsel appearing on behalf of the respondent 2 opposes the petition orally and submitted that providing above 2 above opportunities to the petitioner to adduce his evidence on 3.12.2013, 17.02.2014 & 10.03.2014, 3 more opportunities were given hence the trial Court gave sufficient opportunity and the petitioner failed to adduce his evidence and the order of the Court below is well founded. The petition has no substance, hence the same may be dismissed.

7. In order to appreciate the arguments advanced on behalf of the parties, I have perused the record of the petition.

8. On perusal of the entire order sheets, it is clear that on 3.12.2013, 17.2.2014, 10.3.2014, 3.2.2015 and 3.3.2015, the matter was fixed for applicant's evidence. During these hearing dates, the applicant examined Dr. Akhilesh Yadav and Mainak Dev Sikdar and also the petitioner's examination-in-chief started on 6.1.2014 and the same was incomplete as he has to prove the documents. In the present petition, the petitioner is praying for only one opportunity to present himself before the Court below for his remaining examination-in-chief. It is apparent that the matter belongs to compensation as the petitioner suffered bodily injury arising out of a motor accident. The Motor Accident Claims Tribunal cases are social legislation where the victim of the motor accident cases pray before the Court for adequate compensation. The petitioner is a villager, belongs to Scheduled Tribe category with no any independent source of income and also after the incident he is unable to earn his bread as per the facts mentioned in the

petition. On perusal of the order sheet it shows that an application under Order 7 Rule 14 of the Code of Civil Procedure, 1908 (for short 'the Code') was filed on 17.3.2014 finally disposed of on 8.1.2015. Sufficient to demonstrate the working before the Tribunal wherein an interim application kept pending for about 10 months and also thereafter, the matter was kept pending for other interim applications. The matter was listed in Lok Adalat for conciliation between the parties as also held by this Court in Writ Petition (227) No. 564/2015 (HDFC Ergo General Insurance Company Limited Vs. Smt. Mamta Chaturvedi & Ors.), as per rule 240 of the Chhattisgarh Motor Vehicle Rules, 1994 (in brevity 'the Rules 1994') examination of the witnesses on affidavit under Order 18 Rule 4 of the Code is not applicable in proceedings before the Claims Tribunal. Also as per Rule 235 of the Rules 1994 gives a different procedure for recording evidence. As per Rule 241, the legislature has given authority to the Claims Tribunal to follow such summary proceedings as it thinks fit and also as the matter is of a nature of social legislation, the Claims Tribunals are not required to mechanically close the opportunity of the parties without proper appreciation in the matter. Also when the petitioner has prayed that he be given just an opportunity for his remaining examination-in-chief and cross-examination, upon considering all the entire facts it would be appropriate in the larger interest of justice to award an opportunity of hearing to the petitioner for his remaining examination-in-chief and for the cross-examination so as to adjudicate the matter and also to prove his case before the Claims Tribunal.

9. Consequently, the petition is allowed. The Court below is directed to give one opportunity to the petitioner to adduce his evidence before the Tribunal. The petitioner is directed to remain present on the

date so fixed in this behalf by the Tribunal for recording his remaining part of the evidence i.e. examination-in-chief and cross-examination. The petitioner may file certified copy of this order before the Court below for compliance. Registry is also directed to send the copy of this order to the Court below for compliance.

10. No order as to cost.

**Sd/
(Chandra Bhushan Bajpai)
JUDGE**

