

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 597 of 2015**

1. Smt. Ramsheela Bai W/o Late Mukesh Satnami Aged About 27 Years R/o Mageshwar Ward Dhamtari, Tahsil And District Dhamtari, (Chhattisgarh)
2. Ku. Divaa D/o Late Mukesh Satnami Aged About 9 Years (Minor), Legal Guardian Mother Smt. Ramseela Bai W/o Late Mukesh Satnami, R/o Mageshwar Ward Dhamtari, Tahsil And District Dhamtari, (Chhattisgarh)

---- Petitioners**Versus**

1. Om Prakash Sahu S/o Lakhan Lal Aged About 31 Years (Driver) R/o Urla Ward No. 36 Mohan Nagar, Durg, Tah. And District Durg, (Chhattisgarh)
2. Anand Agrawal S/o Late Kalan Singh Aged About 45 Years (Owner) R/o Baniyapara, Durg, Tahsil And District Durg, (Chhattisgarh)
3. The New India Insurance Company Limited, R/o Parkh Bhawan Station Road Durg, Tahsil And District Durg, (Chhattisgarh)
4. Smt. Malti Bai W/o Latkhor Satnami Aged About 57 Years Cast Satnami, R/o Village Doma, Tah & District Dhamtari, (Chhattisgarh)
5. Smt. Dulurin Bai W/o Late Mukesh Satnami Aged About 35 Years R/o Village Doma, Tahsil And District Dhamtari, (Chhattisgarh)
6. Devid Kumar S/o Mukesh Satnami Aged About 16 Years (Minor) Legal Guardian Mother Smt. Dulurin Bai W/o Late Mukesh Sonwani, Aged About 35 Years, R/o Village Doma, Tahsil And District Dhamtari, (Chhattisgarh)
7. Ku. Kheleshwari D/o Mukesh Satnami Aged About 14 Years (Minor) Legal Guardian Mother Smt. Dulurin Bai W/o Late Mukesh Sonwani, Aged About 35 Years, R/o Village Doma, Tahsil And District Dhamtari, (Chhattisgarh)
8. Ku. Kajal D/o Mukesh Satnami Aged About 12 Years (Minor) Legal Guardian Mother Smt. Dulurin Bai W/o Late Mukesh Sonwani, Aged About 35 Years, R/o Village Doma, Tahsil And District Dhamtari, (Chhattisgarh)
9. Ku. Guneshwari D/o Mukesh Satnami Aged About 6 Years (Minor) Legal Guardian Mother Smt. Dulurin Bai W/o Late Mukesh Sonwani, Aged About 35 Years, R/o Village Doma, Tahsil And District Dhamtari, (Chhattisgarh)

---- Respondents

Shri Sanjeev Sahu, counsel for the petitioner.
Shir Qamural Aziz, counsel for respondent No.3.
None for respondents 1, 2 & 4 to 9, though served.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order

05.11.2015

Heard.

2. Brief facts required for the disposal of the instant petition is that before the Motor Vehicles Claims Tribunal, Dhamtari, a Claim Case No.94/14 is pending wherein the petitioners, who are non-applicants 5 & 6, have prayed for an opportunity to adduce their evidence in the matter and for which they have also filed application before the Court below but the Court below vide order dated 15.7.2015 rejected their prayer and held that as per order 17 of the Code of Civil Procedure, only three opportunities will be given to adduce the evidence, hence, the application is not maintainable and thereby dismissed their prayer and listed the matter for final hearing. Against the said order, the petitioners have invoked the jurisdiction of Writ Petition (227) of the Constitution and prayed that they may be given opportunity to adduce their evidence and if they fail to adduce their evidence, a reasonable cost may be imposed upon them. Hence, it is prayed that they be given opportunity for the same.

3. On behalf of the petitioners, it is argued that the Court below mentioned the facts for non examination of non-applicants 5 & 6 though their prayer for an opportunity was rejected. Learned counsel would further submit that compensation matter arising out of motor vehicle accident is a social legislation and in the matter strict compliance of the procedural code is not required. The court on appropriate reasons may

take procedure for proper adjudication of the matter. If they were not given opportunity, the claim case cannot be disposed of on its merits as the non-applicants also prayed that they were also entitled for claim as they are also the legal heirs of deceased Mukesh Satnami, who died in the accident.

4. On behalf of respondent No.3, the petition was opposed.

5. For the purpose of appreciation of the prayer made in the instant writ petition, arguments advanced and material adduced in the case are perused.

6. As a settled law, motor accident claim cases are social legislation wherein legal heirs of the deceased or the injured as the case may be, are prayed before the Court for adequate compensation. In the present matter a claim case No.94/14 filed by respondents 5 to 9 is pending before the Court below for the compensation as Mukesh Satnami died in the accident. In the said claim petition, the present petitioners are non applicants 5 & 6. They also prayed that since they are also the legal heirs of deceased Mukesh, they also be given adequate compensation. It is also apparent from the copies that the present petitioners were also filed separate claim Case No.99/14 as applicants and the court below is trying both the claim cases together. It is also a point to note that provisions of Code of Civil Procedure is not strictly applicable and also only three opportunity to adduce the evidence is not a mandatory it can be appreciated with the facts of the matter. The Court below failed to give the facts as on what basis the petitioners were not in a position to adduce evidence.

7. On due consideration of the entire facts, in view of this Court, the order of the court below for rejecting the prayer for an opportunity to adduce evidence is not acceptable and the same requires interference.

8. Consequently, order dated 15.7.15 passed by the Court below regarding rejection of the application for opportunity to adduce evidence on behalf of the petitioners is hereby set aside. The Court below is directed to give reasonable opportunity to the petitioners for adducing their evidence in the matter. After the receipt of this order, the petitioners may also file certified copy of the order before Court below for their opportunity. After awarding reasonable opportunity, the court below is directed to expedite the matter and dispose of the same as early as possible.

9. The Court below is further directed not to write the word 'Chief' before the word Motor Accidents Claims Tribunal in claim cases. As per the law, the court below is Motor Accidents Claims Tribunal and mentioning of the word 'Chief' is not authorized under the law. The same may not be used while hearing any claim matter.

10. The Registry is directed to send a copy of this order to the Court below for compliance.

11. The petition is allowed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE