

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 210 of 2015

1. Kailashdas Mahant S/o Shri Harierdas Mahanat Aged About 36 years
2. Dipakdas S/O Shri Hariherdas Mahant Aged About 46 Years Both are resident of Village Tharakpur, Police Chowki Urga, District Korba (Chhattisgarh)

---- Petitioners

Versus

1. Deshrathgiri S/o Shri Shanker Giri Aged About 52 years
2. Budhawara Bai W/O Shri Deshrathgiri Aged About 47 Years R/O Village Dhamna Police Chowki Urga District Korba (Chhattisgarh)
3. Bhujbal S/O Chainu Yadav Aged About 50 Years R/O Sukharikhurd Police Chowki Urga District Korba (Chhattisgarh)
4. Sonadas S/O Shri Fatatudas Aged About 34 Year R/O Vill Dhamnagudi Tahsil Kartala District Korba (Chhattisgarh)
5. Collector Korba, District Korba (Chhattisgarh)

---- Respondents

For Petitioners	: Shri Rakesh Dubey, Advocate
For Respondent/State	: Shri Sunil Pillai, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

24/03/2015

1. Petitioners are the non-claimants/judgment debtors against whom the Motor Accident Claims Tribunal passed an award on 31/01/2006 directing them to make payment of compensation of Rs.1 Lakh to the claimants/respondents No. 1 & 2. Out of Rs.1 Lakh, the petitioner had already paid the amount of Rs.50,000/- towards no fault liability, therefore, the said amount was adjusted. For the remaining amount, the claimants moved an application for execution and in the said proceeding petitioners tractor trolley was attached. The said tractor trolley

could not be sold because it was damaged and was of no use. The person in whose Supurdnama tractor trolley was placed was also proceeded criminally by lodging a complaint under Section 406 of I.P.C.

2. Since the amount could not be recovered by selling tractor trolley, the execution proceeding is still pending wherein petitioner moved an application for recovery of the balance amount by auctioning the tractor trolley.

3. Learned counsel would submit that the tractor trolley was in the possession of the Supurdar, therefore, the petitioner is not responsible for the damage caused to the tractor trolley. The amount should have been recovered by auctioning the tractor trolley and the petitioner is no more liable to pay any amount to the claimants.

4. In view of the clear finding by the Tribunal that the tractor trolley is damaged and is of no use, therefore, it could not be sold, the execution proceeding has to go on because the award has to be satisfied. The petitioners cannot be absolved its liability merely because his tractor trolley was attached. Award would be satisfied only on payment of the entire amount of compensation to the claimants.

5. Petitioners may pay the amount under the award and move an application for return of the tractor trolley. The writ petition is dismissed.

JUDGE