

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 63 of 2016

1. Lalita Sahu W/o Late Jagdish Sahu, Aged About 43 Years
2. Ghanshyam Sahu, S/o Late Jagdish Sahu, Aged About 24 Years

Both are R/o Village Shivnikala, Police Station & Tahsil Kurud,
Revenue And Civil District Dhamtari Chhattisgarh

---- Petitioners/

claimants

Versus

1. Holu Ram Patel S/o Kejva Ram Patel, Aged About 55 Years R/o B.T.I.
Road, Van Vibhag, Colony, Mahasamund, District Mahasamund
Chhattisgarh.....Driver & Owner Of The Motor Cycle No. C G -06/
P/6335
2. United India Insurance Company Limited, Branch Office Krishna
Complex, 1st Floor, G.E. Road, Raipur, District Raipur
Chhattisgarh.....Insurer Of The Motor Cycle No. C G-06/ P/ 6335

---- Respondent/

non-applicants

For Petitioners : Shri PK Patel, Advocate.

For Respondent No.2 : Shri H.B. Agrawal, Sr. Advocate with Shri Pankaj
Agrawal, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

27/01/2016

With the consent of the parties, the matter is heard finally.

02. Challenge in this petition under Article 227 of the Constitution of India is
to the order dated 14.1.2016 whereby the learned Motor Accident Claims
Tribunal, Dhamtari has closed the right of the petitioners/claimants to adduce
evidence.

03. Counsel for the petitioners submits that in an accidental case where the
claim has been filed by the petitioners, on account of illness of petitioner

No.1, they failed to produce their witness, as a result of which their right to adduce evidence has been closed in an illegal manner, though an application under Order 17 Rule 11 of CPC was filed by them. He submits that if the order impugned is allowed to stand, the petitioners will suffer irreparable loss and in fact, the very purpose of filing the claim case would be frustrated. It has been further argued that the Motor Vehicle Act is a benevolent law and therefore, the Court below ought to have taken a liberal view. Lastly, he submits that in the interest of justice, one opportunity may be granted to the petitioners to adduce evidence.

04. Counsel appearing for the insurance company supports the order impugned.

05. Considering the facts and circumstances of the case, in particular the fact that if the petitioners are not permitted to adduce evidence, the very purpose of filing claim case itself would be defeated and further considering that the petitioners had also filed an application under Order 17 Rule 1 of CPC, in my opinion, the petitioners deserve to be granted one more opportunity to adduce evidence. The petitioners are permitted to adduce evidence on 25th February, 2016. The order impugned is, accordingly, set aside.

06. In view of above, the petition stands disposed of.

Sd/

(Pritinker Diwaker)

Judge

Khan