

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 62 of 2016

- Bisakha Bai W/o Khorbahra Sahu, Aged About 50 Years R/o Village Maurikala, Police Station & Tahsil Kurud, Revenue And Civil District Dhamtari Chhattisgarh

---- Petitioner

claimant

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 and owner of the motor cycle No. CG 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. CG 06/P/6335)

---- Respondent

For Petitioner : Shri PK Patel, Advocate.

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

Order On Board By Shri Justice Pritinker Diwaker

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 petitioner/claimant to adduce evidence.

03. Counsel for the petitioner submits that in an accidental case where the claim has been filed by the petitioner, on account of her illness she failed to produce her witness, as a result of which her right to adduce evidence has been closed in an illegal manner, though an application under Order 17 Rule 11 of CPC was filed by her. He submits that if the order impugned is allowed to stand, the petitioner 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 petitioner 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 petitioner is not permitted to adduce evidence, the very purpose of filing claim case itself would be defeated and further considering that the petitioner had also filed an application under Order 17 Rule 1 of CPC, in my opinion, the petitioner deserves to be granted one more opportunity to adduce evidence. The petitioner is 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