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HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 359 of 2016**

- M/s Shrikishan & Company Through Proprietor, Sushil Agrawal, Aged About 47 Years, S/o Late Shri Kishan Agrawal, R/o. S- 1, Shri Complex, Stadium Road, T.P. Nagar, Korba, Tahsil And P.S. Korba, Distt. Korba (Chhattisgarh)

---- Petitioner**Versus**

1. Vijay Kumar Patel S/o Shri Gendram Patel, Aged About 19 Years R/o. Vill Jatraj Chandranagar, Kusmunda, Tahsil Katghora, Distt. Korba, Next Friend Gendram Patel, Aged About 48 Years, S/o. Shri Santram Patel, R/o. Vill. Jatraj Chandranagar, Kusmunda, Tahsil Katghora, Distt. Korba (Chhattisgarh)
2. Rajesh Kumar Singh, S/o Shri Harischandra Singh, Aged About 30 Years R/o. Old Basti, Rani Road, Korba Tahsil And Distt. Korba (Chhattisgarh)
3. United India Insurance Company Limited, Branch Office- T.P. Nagar, Korba, Tahsil And Distt. Korba (Chhattisgarh)
4. Harischandra Rajput, S/o Shri Jamuna Singh Rajput, Aged About 52 Years R/o. Near K.N. College, Rani Road Korba, Tahsil And Distt. Korba (Chhattisgarh)
5. Suresh Kumar, S/o Shri Kanchedila, Aged About 44 Years R/o. Motisagar Para, Ward No. 5, Korba, Tahsil And District Korba (Chhattisgarh) Presently Resided At Barpali, P.S. Uрга, Tahsil And District Korba (Chhattisgarh)

---- Respondents

For Petitioner : Shri MK Bhaduri, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****13/06/2016**

1. Motor Accident Claims Tribunal (for short 'MACT'), Katghora, district Korba, rendered an award on 5-7-12 in claim case No.281/07 holding the petitioner, the owner of the vehicle, to be liable to pay compensation of Rs.5,20,000/- to the claimant. The insurance company, was absolved from the liability.

2. Instead of preferring an appeal under Section 173 of the Motor Vehicle Act, 1988 (for short 'the Act, 1988'), the petitioner moved an application for review of the award on the ground that on the date of accident, the vehicle was transferred in the name of one Harishchandra Rajput, but the said fact could not be brought to the notice of the MACT. The MACT has rejected review petition on the ground that the award being appealable, the review application is not maintainable.
3. It is argued that since the petitioner had not preferred any appeal, an application for review under Section 114 of the CPC is maintainable and the Court below has failed to exercise jurisdiction vested in it. It is also argued that power of review being a judicial power, the MACT was competent to entertain the application, therefore, the impugned order rejecting review application as not maintainable is *per se* illegal. He would refer to the law laid down by the Supreme Court in the matter of **Rajendra Kumar & Ors. Vs. Rambhai & Ors**¹.
4. In the matter before the Supreme Court, the issue was not as to whether the MACT can exercise power of review under Section 114 read with Order 47 Rule 1 CPC. The issue was never raised nor dealt with. It is settled that a judgment is binding on the issue raised and decided by the Court.
5. Rule 240 of the Chhattisgarh Motor Vehicle Rules, 1994 prescribes the procedure to be followed by the claims tribunals in holding enquiries. It speaks about application of certain provisions of Code of Civil Procedure in the following manner:-

“240. Procedure to be followed by Claims Tribunal in holding enquiries.- Application of certain provisions of Code of

¹AIR 2003 SC 2095

Civil Procedure 1908; Save as otherwise expressly provided in the Act or these rules, the following provisions of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) namely, those contained in Order V, Rule 9 to 13 and 15 to 20, Order IX, Order XVIII, Rules 3 to 10, Order XVI, Rules 2 to 21, Order XVII, Order XXI and Order XXIII, Rules 1 to 3 shall apply to proceedings before a Claims Tribunal in so far as they may be applicable thereto.”

6. A plain reading of the above quoted Rule 240 would imply that Section 114 or Order 40 Rule 1 of CPC have not been made applicable in the proceedings before the claims tribunal.
7. It has been held by the Supreme Court in **Abdul Basit** ALIAS RAJU **and Others Vs. Mohd. Abdul Kadir Chaudhary and Another**² that review being creature of statute any Court or authority has no inherent jurisdiction to exercise power of review and that such power has to be specifically conferred by the statute.
8. Even otherwise, the petitioner was a party before the claims tribunal and had ample opportunity to putforth its case during the enquiry pending before the MACT. If the petitioner failed to bring it to the notice of the claims tribunal that on the date of accident the vehicle was sold out to some other person, the petitioner has to blame himself and there was no error apparent on the face of the record.
9. For all the aforestated reasons this petition under Article 227 of the Constitution of India has no substance. It deserves to be and is hereby dismissed.

Sd/-
Judge
Prashant Kumar Mishra

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² (2014) 10 SCC 754