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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (C) No.82 of 2006

Altaf Khan, S/o Shri A.K. Khan, occupation Contractor, R/o Bairan Bazar Raipur, Tahsil and District Raipur, Chhattisgarh

---- Appellant

versus

1. Balwan Singh, S/o Shri Lal Singh Chauhan, aged about 35 years, R/o Sunrise Transport Mahrajpur, Thana Mahrajpur, District Chhatarpur, Madhya Pradesh
2. Rajendra Kumar Chourasia, S/o Shri Ghasiram Chourasia, aged about 33 years, Truck Transporter Khadia Mohalla Mahrajpur, Sunrise Transport Maharajpur, Thana Maharajpur, District Chhatarpur, Madhya Pradesh
3. The Oriental Insurance Company Limited, through Divisional Office No.1, Raipur Madina Manzil Jail Road, Raipur, Chhattisgarh

---- Respondents

For Appellant	:	Shri Sachin Singh Rajput, Advocate
For Respondents	:	None

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

21.10.2016

1. This appeal by the Claimant is directed against the award dated 28.2.2006 passed by the 4th Additional Motor Accidents Claims Tribunal, Raipur in Claim Case No.71 of 2005 awarding only a sum of Rs.6,000/- in favour of the Claimant. The Claimant is the owner of Jeep No.CG 04 ZP 1728. This jeep was hit by Truck No.MP 16 A 4593 on 1.2.2003. The Claimant claimed that he had suffered loss of Rs.1,43,000/- on account of damages to the jeep. The Claimant also led evidence in this regard. The Tribunal held that since the liability of the Insurance Company is limited to only Rs.6,000/-, the Claimant was only entitled to the amount of Rs.6,000/- as compensation.

2. I am constrained to observe that the award shows total lack of knowledge on the part of the Presiding Officer with regard to the provisions of the Motor Vehicles Act. Assuming that the liability of the Insurance Company was only to the extent of Rs.6,000/- then also the Claimant could be entitled to a higher amount if higher damages had been proved. What could have been done in such a case is that the owner and the driver have to be held liable to pay the excess amount, over and above Rs.6,000/-.

3. In this case, the Tribunal has not made any discussion with regard to the issue as to what is the damages which have been caused to the claimant. Therefore, the award of the Tribunal is set aside. The matter is remanded to the Tribunal to firstly assess what is the loss caused to the claimant by the accident. Thereafter, the Tribunal shall decide whether the liability of the insurance company is limited or is unlimited. I have not found any insurance policy on record, but the insurance company even at this stage may be permitted to file the insurance policy. No other evidence will be permitted to lead by any of the parties. The Tribunal shall afford one opportunity to the insurance company to produce the insurance policy and if the policy is not produced, the Tribunal shall proceed on the assertion that the liability of the insurance company is unlimited.

4. The Registry is directed to send back the record of the claim case to the Tribunal within three weeks from today. The Tribunal shall decide the matter as early as possible preferably by 28.2.2017. The Appellant is directed to appear before the Tribunal on 28.11.2016.

5. The appeal is disposed of in the aforesaid terms.

Sd/-

(**Deepak Gupta**)
CHIEF JUSTICE

Gopal