

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1001 of 2014**

Satvant Singh S/o Gurdev Singh Aged About 45 Years R/o
Gurudwara Road, Tatibandh, Raipur, Civil and Revenue Distt.
Raipur C.G.

---- Appellant**Versus**

1. Kamla Pottam & Ors. W/o Late Lalchand Pottam Aged About 38 Years
2. Yogendra Singh Pottam S/o Late Lalchand Pottam Aged About 18 Years

Both R/o At Present Ramnagar, Korba, Tah. And Distt. Korba
C.G., Permanent R/o Village- Andi, P.S. Pendra, Distt. Bilaspur
C.G.

3. Vinod Kumar Sinha S/o Tukaram Sinha Aged About 24 Years R/o
Bhatapara, Basti, Tatibandh, Raipur C.G.
4. The Oriental Insu.Co.Ltd. Thru- Branch Manager, Korba C.G.,
Tah. And Distt. Korba C.G.

---- Respondents

For appellant	:	Mr. Y.C. Sharma, Adv.
For Respondent No. 1	:	Mr. Punit Ruparel, Adv.
For Respondent No. 4	:	Mr. Ratan Pusty, Adv.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****09/12/2016**

1. None for respondent No. 2 though served as per office note.
2. Notice issued to R-3 returned unserved as the address is incomplete.
3. This MAC is not yet admitted.
4. Learned counsel for the R-1 has filed an application I.A. No. 5/16 for urgent hearing annexing therewith a copy of the order passed in MAC No. 696/2011 dated 11-12-2012 whereby the appeal

filed on behalf of the claimants/respondents No. 1 and 2 against the impugned award dated 21-4-2011 in Claim Case No. 13/2009 was dismissed by the Division Bench of this Court. Said appeal was filed by the claimants challenging the findings of the Claims Tribunal regarding exoneration of the Insurance Company to satisfy the award. The Division Bench had concluded that the finding of the Claims Tribunal so far as it relates to liability of the insurer is correct and the Division Bench concurred with the said finding and dismissed the appeal.

5. Learned counsel for the respondent No. 1 submits that in the light of above facts, instant MAC is not maintainable.
6. Perused the other facts including that the instant MAC is preferred after 1150 days of its limitation.
7. Learned counsel for the appellant submits that by filing review petition No. 11/14, the present appellant sought for review of the order dated 11-12-2012 passed in MAC No. 696/2011. The said review petition was dismissed as withdrawn by this Court vide order dated 10-10-2014 as the review petitioner wanted to withdraw the same reserving the liberty to file appeal against the original award. Learned counsel submits that in view of above order dated 10-10-2014 the appellant has liberty to file the instant appeal and hearing of it on merit. Hence the said objection raised by the respondent No. 1 may be rejected.
8. Learned counsel for the respective parties have supported their case.
9. On due consideration, the only question of law left before this Court is whether in any way this Court can take a different view as taken by the Division Bench in MAC No. 696/2011 and if yes,

under which authority of law ?

10. Learned counsel for the appellant submits that the said order dated 11-12-2012 in MAC No. 696/2011 was passed by the Division Bench only because as per concerned rules, the MAC was to be heard before the Division Bench and after amendment in the relevant rules, the MAC is to be heard by the single bench and as they were not heard in the said misc. appeal, instant appeal is maintainable.
11. From perusal of the rules of business prevailing at the time of hearing of MAC No. 696/2011, the matter was to be heard by the Division Bench and for the present moment as per the rules, the MAC is to be heard by a single bench. Very correct, the appellant though party in the said MAC but not represented at the time of hearing and was not heard as shown in the said order. For the sake of argument, if the present appellant was neither noticed nor heard even then the appropriate bench having authority to hear the matter had disposed of the said MAC on the appreciation that exoneration of insurance company to bear the liability of compensation was correct and it is the appellant and respondent No. 3 who are liable for satisfaction of the impugned award. With this, the Division Bench of this Court under the authority of Section 173 of the Motor Vehicles Act, 1988 has decided a issue which is also relevant for this case and this bench under no authority can take a different view as taken in the order dated 11-12-2012 by the Division Bench, though authorized to hear the instant MAC. This Court is not hearing the matter for review, for modification, for alteration in the said order.
12. In view of above, this Court is of the considered view that this

bench has no authority to take a different view as taken by the division bench in MAC No. 696/2011 dated 11-12-2012, also the present matter is barred by 1150 days of its limitation.

13. Instant MAC is thus dismissed as not maintainable.
14. No order as to costs.

Sd/-
(Chandra Bhushan Bajpai)
Judge