

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 163 of 2016

- Narayan Singh S/o Jamuna Prasad, Aged About 42 Years R/o Village- Narayanpur, P.S. Premnagar, District- Surajpur, Chhattisgarh

---- Petitioner

Versus

1. Chaitram S/o Late Trilochan Ram, Aged About 50 Years Occupation- Agriculture, Caste- Kanwar, R/o Village- Kanthmunda, P.S.- Premnagar, Tahsil- Udaypur, District- Surajpur, Chhattisgarh
2. Amrit Bai W/o Chaitram, Aged About 48 Years Occupation- House Wife, Caste- Kanwar, R/o Village- Kanthmunda, P.S.- Premnagar, Tahsil- Udaypur, District- Surajpur, Chhattisgarh
3. Bandhan Singh S/o Chaitram, Aged About 11 Years Occupation- Student, Minor Through Guardian Father Respondent No.1, Chaitram, Caste- Kanwar, R/o Village- Kanthmunda, P.S.- Premnagar, Tahsil- Udaypur, District- Surajpur, Chhattisgarh
4. Devti D/o Chaitram, Aged About 15 Years Occupation- Student, Minor Through Guardian Father Respondent No.1, Chaitram, Caste- Kanwar, R/o Village- Kanthmunda, P.S.- Premnagar, Tahsil- Udaypur, District- Surajpur, Chhattisgarh(Claimants)
5. Narul Haq S/o Dil Mohammad, Aged About 28 Years R/o Village- Gumga, P.S.- Premnagar, District- Surajpur, Chhattisgarh (Owner)

---- Respondents

For petitioner : Mr. A.K. Prasad, Advocate
For Respondents : None

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23-11-2016

1. The instant petition is directed against the order whereby attachment order has been passed against the petitioner who claims to be driver of the vehicle.
2. Learned counsel for the petitioner would submit that vide award dated 4-5-2015 (Annexure A/1), primary liability of payment of

compensation has been held to be that of the owner, therefore, the property of the petitioner, who was driver at the relevant time of accident, cannot be attached.

3. Perused the impugned award dated 4-5-2015 (Annexure A/1) which would show that the accident appears to have taken place on 30-12-2013. The claim is by the dependents of the deceased including two minor children, total four persons. The order speaks that the liability of payment of compensation of Rs.3,49,000/- along with interest would be joint and several, therefore, I am not impressed by the arguments advanced by learned counsel for the petitioner that primary liability is of the owner, therefore, property of the driver may not be attached. The order speaks that the liability is joint and several and it is *inter se* in between the parties to adjudicate and share the claim. It is not for the claimants to exonerate as they are armed with award which is in their favour.
4. In view of the above, I am of the considered opinion that the finding recorded by the court below does not appear to be perverse or illegal, warranting interference by this Court.
5. Accordingly, the instant petition being devoid of merit is liable to be and is hereby dismissed at the admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge

Raju