

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.721 of 2013**

Gangasagar S/o Rajkumar Aged About 27 Years R/o Aramsahi, Thana- Masturi,
Distt. Bilaspur C.G.

---- Petitioner

Versus

1. Raghuvir Chouhan S/o Gautam Chouhan Aged About 21 Years R/o Khutela,
Thana- Sarangarh, Distt. Raigarh C.G.
2. Radheshyam Khande S/o Konda Khande Aged About 55 Years R/o Jarhabhata,
Thana- Civil Lines, Bilaspur, At Present R/o Neepat Box House, Om Nagar,
Jarhabhata, Bilaspur C.G.
3. The United India Insurance Company Thru- Branch Manager, Branch Office,
Stadium Road, T.P. Nagar, Korba, Distt. Korba C.G.

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For Respondent No.2	:	Shri Roop Naik, Advocate
For Respondent No.3	:	Shri Dashrath Gupta, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****08/02/2016**

Heard.

2. This appeal is directed against award dated 19-06-2013 passed by the Additional Motor Accident Claims Tribunal, Bilaspur, by which, claim of the appellant has been dismissed.

3. Learned counsel for appellant submits that in an accident, which had occurred on 24-01-2011, the appellant claims to have been injured. FIR was also lodged vide Ex.P-1 in the Police Station and thereafter, the appellant moved an application for grant of compensation before the Claims Tribunal. Before the Tribunal, the Driver and Owner remained ex parte. However, the Insurance Company resisted the claim disputing the

accident by the unnamed offending vehicle and the insurance company denied its liability.

4. Learned Claims Tribunal, however, dismissed the application by disputing that the accident was caused by the offending vehicle Maruti Suzuki Alto Car Registration No.CG 10 F/3782.

5. Learned counsel for appellant argued that the Claims Tribunal illegally rejected the application because the driver and owner remained ex parte and did not dispute the allegations in the claim application that the accident was caused by the offending vehicle Registration No.CG 10 F/3782. The insurance company in its written submission did not dispute the identity of the vehicle. He submits that the order of Claims Tribunal is primarily based on a finding recorded by the Criminal Court where driver has been acquitted by giving him benefit of doubt. He submits that the provisions relating to compensation are benevolent provisions and it was the duty of the Claims Tribunal to make proper enquiry and award appropriate compensation to the appellant.

6. On the other hand, learned counsel for respondents opposed the prayer by supporting the award passed by the Claims Tribunal and submitted that even according to the claimant, as stated in his cross-examination, he could not locate number of the vehicle which offended him and therefore, FIR was lodged against unknown person and vehicle.

7. Though, in the application filed by the claimant before the Claims Tribunal, it has been stated that the accident was caused by the vehicle Maruti Suzuki Registration No.CG 10 F/3782, in the evidence of the claimant in cross-examination, he has clearly stated in para 13 that at the time of accident, he could not locate the number of the vehicle, and therefore, the FIR, Ex.P-1 was lodged against unknown vehicle.

On the face of statement made by the Claimant made in the cross-examination, to my mind, the Claims Tribunal was left with no other option but to dismiss the claim

application besides the finding recorded by the Criminal Court where the Driver and Owner were acquitted by giving them benefit of doubt.

8. Once, the claimant himself has admitted that he could not see the number of the vehicle and there being no other evidence connecting the offending vehicle with the accident, the Claims Tribunal has rightly dismissed the application.

9. In the result, the appeal is dismissed.

Sd/-
Manindra Mohan Shrivastava
Judge