

HIGH COURT OF CHHATTISGARH, BILASPUR
MAC No. 709 of 2008

1. Kanwalu Ram Yadu S/o Shri Ram Lal Yadav, aged about 55 years,
 2. Mohan Lal Yadu S/o Shri Kanwalu Ram Yadu, aged about 30 years,
 3. Manohar Lal Yadu S/o Kanwalu Ram Yadu, aged about 28 years
 4. Sewati Bai D/o Kanwalu Ram Yadu, aged about 26 years.
 5. Indra Kumar S/o Kanwalu Ram Yadu, aged about 24 years,
- All are R/o Mamta Nagar, gali No. 6, Ward No. 17, Rajnandgaon, Tah. & Distt. Rajnandgaon, C.G.

-----Appellants

Versus

1. Sohan Lal S/o Gendlal, aged about 22 years, R/o Behind Maanpur College, Tah. And Distt. Rajnandgaon (CG).
2. Uttamchand Jain S/o Late Jethmal Ji Jain R/o Prakash Kirana Store, Tah. & Distt.- Rajnandgaon, C.G.
3. Branch Manager, I.C.I.C.I. Lombard General Insurance Co. Ltd. , 1st Floor, 105, New Civic Center, Near Mourya Takkies, G.E. Road Bhilai, Tah.& Distt- Durg (C.G.)

---- Respondents

For Applicants	:	Shri HP Agrawal, Advocate.
For Respondent No.3	:	Shri Amrito Das and Shri P. Acharya, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

15/12/2017

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed seeking enhancement of compensation against the award dated 05.03.2008 passed by the Motor Accident Claims Tribunal, Rajnandgaon (in short, the Tribunal) in Claim Case No.50 of 2007.
2. Learned counsel appearing for the respondent No.3-insurance company submits that the management of ICICI Lombard General Insurance Company had been proceeded ex-parte while the impugned award dated 05.03.2008 was passed. Against the said ex-parte award, the insurance company had preferred an application under Order 9

Rule 13 CPC for setting aside the ex-parte award which was pending consideration before the Tribunal at Rajnandgaon.

3. Against the said application under Order 9 Rule 13 CPC, the insurance company had already preferred a writ petition which was registered as Writ Petition (227) No. 553 of 2012.
4. This court has received a report from the District & Sessions Judge, Rajnandgaon on 14.12.2017 intimating that MJC (Civil) No.38/2008 which was the proceeding under Order 9 Rule 13 preferred by the insurance company, has been heard and decided on 14.12.2017. A copy of the order dated 14.12.2017 is taken on record. The said order reflects that application under Order 9 Rule 13 filed by the insurance company has since been allowed and it has been ordered for re-hearing of the case and for passing an award afresh.
5. In the light of order dated 14.12.2017 passed by the Tribunal in MJC (Civil) No.38/2008 setting aside ex-parte award dated 05.03.2008, i.e. the impugned award in the present appeal, this court is of the opinion that the present appeal preferred by the claimants has now become infructuous.
6. Accordingly, the appeal is dismissed as having become infructuous. However, liberty is reserved in favour of the claimants to challenge the fresh award, if still aggrieved.
7. Considering the fact that it is a case which arose in the year, 2007, it is expected that the Tribunal shall decide the matter as expeditiously as possible preferably within a period of 90 days.

Sd/-

(P. Sam Koshy)
Judge