

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1603 of 2017

S. Meena W/o P. Shekhar Aged About 45 Years R/o Village Bhagwanpur Tahsil & District Raigarh Chhattisgarh. (Claimant)

---- Appellant

Versus

1. Deepak Chatterjee S/o Govindprasad Chatterjee Aged About 35 Years R/o Village Bhelvatikra Urdana Tahsil & District Raigarh Chhattisgarh (Owner)
2. Naeem Khan S/o Tasleem Khan Aged About 32 Years R/o Navagarh Thana District Janjgir Champa Chhattisgarh. (Driver)
Current R/o Village Bhelvatikra Urdana Tahsil & District Raigarh (C.G.).
3. Chola Mandalam General Insurance Company Through Branch Manager, Rahul Complex First Floor Dhimrapur Road Raigarh Chhattisgarh. (Insurance)

---Respondents

For Appellant	:	Mr. Amit Sharma, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/11/2017

1. Present is an appeal by the Claimant, who suffered an injury in a road accident on 19.05.2013, assailing the award dated 24.08.2017, passed by the 4th Additional Motor Accident Claims Tribunal, Raigarh, Chhattisgarh, in Claim Case No. 04/2014.
2. The contentions of the counsel for the appellant is that the Tribunal has not granted any compensation for the disability sustained by the Claimant and that the Tribunal also has not granted sufficient opportunity for the Doctor to remain present before the authorities for evidence and proving the disability certificate.

3. He further submits that the Tribunal also has not granted any compensation towards the loss of earning capacity and loss of income during the period of treatment.
4. Counsel for the appellant further makes a request that ends of justice would meet if the matter is remanded back to the Tribunal with a liberty to the appellant to adduce the evidence of the Doctor to prove the disability and the disability certificate.
5. He also seeks a liberty to get the Doctor examined on commission in case if the Doctor is not appearing before the Tribunal on issuance of summon.
6. The submission made by the counsel for the appellant seems to be a fair submission as the provisions of the Motor Vehicles Act is a liberal legislation and the right of the Claimant should not get adversary affected only on account of the Doctor not cooperating in spite of summons being issued. Accordingly, this Court is of the opinion that the impugned award deserves to be reconsidered and same is accordingly set-aside and the matter is remitted back to the Tribunal directing the appellant to appear before the Tribunal on the 14th of December, 2017 and meanwhile he shall make all arrangements for ensuring the Doctor to be present before the Court on the next date of hearing. In case, if the appellant finds it difficult she can also avail the liberty of moving an appropriate application before the Tribunal seeking permission to get the Doctor examined on commission.

7. With the aforesaid directions the impugned award is set-aside and the matter is sent back. It is expected that the Tribunal shall dispose of the matter afresh taking into consideration the consequent evidence, if any, brought on record.
8. The appeal thus stands disposed of.

**Sd/-
(P. Sam Koshy)
Judge**

Sumit