

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No.232 of 2017**

The Oriental Insurance Company Limited, Through Divisional
Manager, Division Office, Korba, District Korba (CG)

---Petitioner

Versus

- 1.** Smt. Nilima Shaha Wd/o Late Shri Kalidas Shaha, aged about 59 years, R/o Amraiyya Para, Korba, District Korba (CG)
- 2.** Momin Khan S/o. Mohd. Nazir Ahmad, aged about 22 years, R/o Chotiya, Police Station Bango, District Korba (CG)
- 3.** M/s Adarsh Travels Bus Service, Proprietor Mohd. Sultan Khan, R/o Infront of Anand Hotel, Bus Stand, Bilaspur, District Bilaspur (CG)

---Respondents

For Petitioner : Mr.Raj Awasthi, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

03/04/2017

- 1.** The Claims Tribunal in Claim Case No.137/2009 (Smt. Nilima Shaha Vs. Momin Khan and others) passed an award on 14.10.2011 granting compensation to the tune of ₹ 1,80,041/- along with interest.
- 2.** The review petition was filed by the Insurance Company in the year 2012 being MAC MJC No.4/2012 stating inter-alia that the amount towards medical expenses has wrongly been paid as the amount has already been disbursed to the claimants by the employer. The review petition was

dismissed by the Claims Tribunal on the ground that no such ground was taken by the petitioner before the Claims Tribunal.

3. Being dissatisfied with the said order, the present writ petition under Article 227 of the Constitution of India has been filed by the petitioner.
4. Learned counsel appearing for the petitioner would submit that the claimants have suppressed the fact and obtained the order, therefore, there is error apparent on the face of the record. He would further submit that the award has been passed on merits, amount of compensation has been determined and it has been directed to be paid.
5. I have heard learned counsel appearing for the petitioner and perused the order impugned.
6. The question as to whether the Claims Tribunal has a power to review its own award on merits was considered by this Court in Civil Revision No.73 of 2016 (Atul Kumar Mishra Vs. Mohar Singh Chhabra and others), decided on 7.10.2016 and it has been held that the Claims Tribunal has no power to review its award on merits. It was observed as under:-

“23. Thus, from the aforesaid analysis it is *quite pellucid* that the power of review has not been expressly conferred to the Claims Tribunal constituted under the provisions of Motor Vehicle Act, 1989 and Rule 240 of the Rules of 1994. Order 47 Rule 1 of the CPC providing for review has not been made expressly applicable to the Claims Tribunal. Therefore, in absence

of statutory provision the power of review of the award cannot be exercised by the Claims Tribunal except in a case where the award has been obtained from the Claims Tribunal by practicing fraud or making misrepresentation. However, the power of review is inherent in the Claims Tribunal to rectify procedural, arithmetical, clerical error or defect made by the Tribunal to prevent abuse of its process and to make its record straight and to that extent, the review application would be maintainable to the Claims Tribunal to review its award."

7. Applying the principle of law laid down by this Court in Civil Revision No.73 of 2016 to the facts of the present case, it is quite vivid that the award has been passed on merits and the petitioner did not lead any evidence to support of its case. Petition seeking review on merits is not permissible in the light of order passed by this Court in **Atul Kumar Mishra** (supra).
8. Accordingly, the writ petition being without substance is liable to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-