

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 810 of 2017**

Ajay Kumar Thawait S/o Shri Ram Kishun Thawait, Aged About 40 Years R/o Gurasiya, District Korba, Chhattisgarh. Present Address- Bharatiya Nagar Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

---- Appellants**Versus**

1. Ram Kumar S/o Shri Baisakhu Ram, R/o Plot No.- 3/61, Transport Nagar, Hathakhoj Bhilai, District Durg, Chhattisgarh. (Driver Of Trailer No. C. G. 12/s-0281)
2. Vishwajit Singh, S/o Shri Jagtar Singh, R/o H. N. 23, Ward No. 2, Darri Road, District Korba, Chhattisgarh. (Owner Of Trailer No. C. G. 12/s-0281)
3. National Insurance Company Limited, Through- Its Manager, 13 Meenu Complex, Kosabadi, Korba, Chhattisgarh. (Insurer Of Trailer No. C. G. 12/s-0281).

---- Respondents

For Appellant	:	Shri Samir Singh, Advocate.
For respondents No.3	:	Shri PK Tulsyan, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****15/09/2017**

1. Present is an appeal under Section 173 of the Motor Vehicles Act against the order dated 25.02.2017 (wrongly year is mentioned as 2016 in the order sheet) passed by the Additional Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal) in Claim Case No.144/2013.
2. The grievance of the appellant is that the claim application of the appellant filed under Section 166 of the Motor Vehicles Act has been rejected by the Tribunal invoking the provisions of Order 17 Rule 3 CPC as the appellant was not able to adduce any evidence before the Tribunal. The contention of the appellant is that the appellant was hospitalized by virtue of injuries that he has sustained in the accident

and because of which he could not appear before the Tribunal though he has been granted sufficient time. He makes a prayer that now he has got recovered from the injuries sustained and is in position to lead evidence, therefore, he may be granted one opportunity to appear before the Tribunal and to lead evidence.

3. Learned counsel appearing for the respondent No.3-Insurance company, however, opposes the appeal on the ground that record shows that the appellant has been granted more than 43 adjournments to lead evidence, but on some pretext or other, he has till date avoided to lead any evidence and the Tribunal ultimately had no option but to dismiss the claim petition and the order thus cannot be found faulted with.
4. Having heard the rival contentions put forth on either side, indisputably the provisions of Section 166 of the Motor Vehicles Act is a social legislation enacted with an intention that the family members of the deceased/injured because of motor accident should be compensated appropriately. Therefore, ends of justice would meet if the appellant herein is granted one more opportunity to lead evidence.
5. Accordingly, this court thought reluctantly, but is granting one opportunity to the appellant to enter appearance before the Tribunal to lead evidence. Since the contesting parties are present before the court, they shall appear before the Tribunal on 02.11.2017, on which date, the matter may be taken up and evidence of the appellant may be recorded and the Tribunal thereafter shall proceed to decide the

claim on its merit.

6. Registry is directed to ensure that the records of the court below reaches the concerned Tribunal at the earliest well before the next date of hearing i.e. 02.11.2017. It is also directed that under no circumstances, the appellant be granted adjournment on 02.11.2017 when he/she is supposed to remain present along with all witnesses that he has to lead evidence. Adjournment shall be granted only if the matter would not be taken up by the Tribunal due to paucity of time or account of some unavoidable circumstances.
7. In the event if the appellant fails to adduce himself or his witnesses before the Tribunal for evidence on the next date of hearing on 02.11.2017, his right would stand closed and the Tribunal would be at liberty to reject the claim of the appellant in the same manner as has been done vide order dated 25.02.2017.
8. Accordingly, the appeal stands disposed of.

Sd/-
(P. Sam Koshy)
Judge