

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 835 of 2017**

Ramadhar Yadav S/o Shri Tilak Yadav, Aged About 58 Years R/o Darwankanpa, Police Station- Hirri, District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. Ashok Kumar Sahu S/o S/o Shri Kedarnath Sai, Aged About 40 Years R/o Infront Of Kalyan Public School Khamhardih, Pandari, District - Raipur, Chhattisgarh (Driver of Offending Vehicle Bearing Registra No. C.G. 04 /kj- 4933).
2. Mukesh Rochalani, S/o Shri Ferumal Rochalalni (Wrongly Mentioned As Felmal Rochalani In The Impugned Order Dated 10.03.2017), R/o Rajesh Automobile, Near Raipur, District-Raipur, Chhattisgarh (Owner Of The Offending Vehicle Bearing Registration No. C.G.- 04/kj-4933)
3. Bharatiya Axa General Insurance Company Limited, 1st Floor, Chawala Complex, Devendra Nagar Road, Sai Nagar, Raipur, District - Raipur, Chhattisgarh (Insurer Of The Offending Vehicle Bearing Registration No. C.G.- 04/kj - 4933).

---- Respondents

For Appellant	:	Shri Samir Singh, Advocate.
For respondents No.1&2:	:	Shri UKS Chandel, Advocate.
For respondent No.3	:	Shri Sangeet Kumar Kushwaha, 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 10.03.2017 passed by the Additional Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal) in Claim Case No.237/2015.
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 due to injuries

sustained in the said accident 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 enter 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 16 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 fault 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 though 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 03.11.2017, 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. It is directed that under no circumstances, the appellant be granted adjournment on 03.11.2017 when he 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 03.11.2017, 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 10.03.2017.
8. Accordingly, the appeal stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder