

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1581 of 2017

Krishna Yadav S/o Shri Nand Aged About 33 Years Occupation - R/o Village Dattadah District Baliya (U. P.)

Current Residence Dashrath Pan Thela Gali, Raigarh District Raigarh Chhattisgarh

---- Appellant

Versus

1. Rampratap Singh S/o Rambachan Singh, Aged About 45 Years Occupation Driver, R/o Tumri, District Gazipur (U. P.) Current Residence B. B. R. Transport Chhatamuda Chowk, P. S. Jutemill Raigarh Chhattisgarh
2. Sultan Alam, S/o Babu Mohammed, Aged About 41 Years Occupation Vehicle Owner R/o Alampur Kolkata Howrah, Current Residence B. B. R. Transport Chhatamuda Chowk, P. S. Jutmill Raigarh Chhattisgarh
3. Shriram General Insurance Company Ltd. Plot No. 1, 4th Floor, Behind R. K. Mall, G. I. Road Raipur Chhattisgarh 492009

---Respondents

For Appellant	:	Mr. Amit Sharma, Advocate
---------------	---	---------------------------

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/11/2017

1. Present is an appeal by the Claimant challenging the award dated 08.08.2017, passed by the 1st Additional Motor Accident Claims Tribunal, Raigarh, Chhattisgarh, in Claim Case No. 85/2015.
2. Vide the impugned award, the Tribunal has awarded a compensation of Rs.3,34,875/- with interest @8% per annum from the date of application.
3. The counsel for the appellant at the outset submits that present appellant could not get the Doctor examined to support the disability and the loss of earning capacity on behalf of the appellant. He further submits that he may be granted one opportunity to lead

evidence in this regard, so that he may get an opportunity to prove disability and claim for disability compensation accordingly.

4. The submission made by the counsel for the appellant seems to be a fair submission as the provisions of the Motor Vehicles Act being a liberal legislation and the right of the Claimant should not get adversely 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 he can also avail the liberty of moving an appropriate application before the Tribunal seeking permission to get the Doctor examined on commission.
5. 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 fresh evidence, if any, brought on record.
6. The appeal thus stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved