

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1186 OF 2007

Chhattisgarh Infrastructure Development Corporation Ltd., through
Managing Director Chhattisgarh Infrastructure Development Corporation
Ltd., Shastri Chowk, Raipur (C.G.)

... Appellant

versus

1. Sanjay Lakhe, S/o Late Shri Gajanand Vishwanath Lakhe, aged 49 years, Permanent Resident of, E-11, Koil Nagar, Rorkela (Orissa)
2. Shri Ishtyak Ali, S/o Shri Mumtaj Ali, Driver, MPSRTC, R/o near Ramkrishan Nursing Home, Budhapara, Raipur (C.G.)
3. Madhya Pradesh State Road Transport Corporation, now Madhya Pradesh Road Transport Corporation, through the Managing Director, Habib Ganj, Bhopal (M.P.)
4. State of Madhya Pradesh, through the Secretary Transport, Secretariat, Bhopal (M.P.)

... Respondents

For Appellant	:	Mr. Tanuj Patwardhan, Advocate.
For Respondent No.1	:	Mr. N.K. Vyas, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/12/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, preferred by the appellant-Chhattisgarh Infrastructure Development Corporation Ltd, assailing the award dated 9.5.2006 passed by the 10th Additional Motor Accident Claims Tribunal (F.T.C.), Raipur, in Claim Case No. 7/2004.
2. Vide the impugned award, the learned Tribunal, in an injury case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.1,63,594/- to respondent no.1-claimant, with interest thereon at the rate of 6% per annum from the date of presentation of the claim application.
3. The solitary ground of challenge is that the appellant-corporation has inherited only 18% of the assets and liabilities which was under the erstwhile Madhya Pradesh State Road Transport Corporation and that any liability which has been fastened upon the appellant-corporation should be

only to the extent of 18% and the remaining liability should have been fastened upon the respondent no.3-Madhya Pradesh State Road Transport Corporation. Learned counsel for the appellant-corporation thus prayed for the award to be suitably modified.

4. Perusal of record would show that by virtue of the directions given by this Court in the present appeal, the entire amount awarded by the learned Tribunal has already been deposited by the appellant-corporation and which is lying before the Tribunal.

5. The undisputed fact of the case is that the date of accident is 6.6.2000, that is a date prior to the creation of the appellant-corporation, and that the vehicle on the date of accident was owned by respondent no.3-corporation.

6. Given the factual matrix of the case, this Court does not have any hesitation in reaching to the conclusion that for the accident which arose prior to the creation of the State of Chhattisgarh as well as the creation of the appellant-corporation, it would have been the responsibility and the liability of respondent no.3-corporation. However, by virtue of the creation of the new State and also the creation of the new appellant body, the liability has been fastened upon the appellant-corporation.

7. Undisputedly, the assets and liabilities between the appellant and the respondent no.3 corporations had been distributed at the ratio of 18:82. Under the given circumstances, the liability, which could have been fastened upon the appellant-corporation in respect of an accident which arose prior to the creation of the State of Chhattisgarh and the appellant-corporation, would be only that of 18%.

8. Accordingly, this Court modifies the impugned award to the extent that the liability of the appellant-corporation shall be only to the extent of 18% and so far as the balance of 82% is concerned, the appellant-

corporation shall have the liberty of seeking refund of the same from respondent no.3-corporation or at least making an adjustment in respect of any dues or amount which is still to be adjusted between the two corporations. Since the appellant-corporation has deposited the entire amount the same can be released to the claimants, and in turn the appellant-corporation can initiate proceeding for recovering the amount to the extent of 82% from the respondent no.3-corporation.

9. The appeal thus stands allowed in part and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge