

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Misc. Appeal (C) No. 1194 of 2010

Yashoda Bai wife of Shri Meenaram Rodge, aged about 45 years,
occupation labour, R/o Panjari Plot, near at primary school building,
Raigarh, Tahsil & District Raigarh (CG)

---- Appellant

Versus

1. Sanjay Agrawal son of late Shri Ramkumar Agrawal, aged about 36 years, through Dileep Sahu, Katara Road, Raigarh, Tahsil & District Raigarh (CG)
2. The New India Insurance Company, Branch Office Sattigudi Chauk, Raigarh, District Raigarh (CG)

---- Respondents

For Appellant	:	Shri Roop Naik, Advocate.
For Respondent No.2	:	Shri Raj Awasthi, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/11/2017

Present is a claimant's appeal under Section 173 of the Motor Vehicles Act assailing the award dated 31.08.2010 passed by the 4th Additional Motor Accident Claims Tribunal (FTC) Raigarh (CG) in Claim Case No.25/09. Vide the impugned award, the Tribunal in an injury case under Section 166 of MV Act has rejected the claim application of the appellant.

2. The rejection of the claim application is on the ground that the claimant has not been able to sufficiently prove the involvement of the vehicle belonging to respondent no.1 in the accident i.e. Maruti Van bearing registration No. CG 13 C 2319.

3. Contention of the counsel for the appellant is that there appears to have some confusion in the mind of the Tribunal regarding the temporary number issued by the show room of the vehicle while the sale of Maruti van was made i.e. CG 10 T 115 and subsequently the registration number was provided by the concerned RTO and it was only on this ground, the Tribunal has rejected the claim application. Counsel for the appellant drew the attention of the Court to the documents which have been produced by way of an application under Order 41 Rule 27 of CPC i.e. the FIR which was lodged in respect of the accident and the order passed by the concerned Court releasing the vehicle involved in the accident on Supurdnama to respondent no.1 where the contention of the appellant gets cleared and which shows that it was the same vehicle involved in the accident and which was duly insured with respondent no.2.

4. Given the aforesaid factual matrix of the case, since these materials were not proved and exhibited before the Tribunal, this Court is of the opinion that it is a fit case where the claim application of the claimant needs to be reconsidered. Accordingly, the impugned order is set aside and the matter is remitted back to the Tribunal with a direction to pass an order afresh. The appellant shall be at liberty to produce all relevant documents available with him before the Tribunal to prove the accident, the disability and the medical expenses etc. and the respondents including the Insurance Company would also have the liberty of rebutting the claim of the appellant. The matter thus stands remitted back to the Tribunal.

5. Since the appellant and the respondent Insurance Company are represented before this Court, they are directed to appear before the Tribunal on 5th of December, 2017. Registry should ensure that the record is sent back to the Tribunal at the earliest so that it reaches the Tribunal before the next date given by this Court i.e. 05.12.2017.

Considering the seniority of the matter, it is expected that the Tribunal shall try to dispose of the matter at the earliest preferably within a period of four months from 05.12.2017. Subject to the appellant furnishing photo copies of the certified copies of the documents which he has filed under order 41 Rule 27 CPC, the same shall be returned to him so that the said documents can be used by the appellant before the Tribunal.

Sd/-
(P. Sam Koshy)
Judge