

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 560 of 2017

1. Ashwani Kumar Kashyap S/o Yaadram Kashyap, Aged About 31 Years R/o Village Kamta, Thana/ Tahsil Shivrinarayan, Distt. Janjgir-Champa, Chhattisgarh
2. Narad Prasad Kashyap S/o Ganesh Prasad Kashyap, Aged About 46 Years R/o Village Kamta, Thana/ Tahsil Shivrinarayan, Distt. Janjgir-Champa, Chhattisgarh

---- Appellants

Versus

Pushkar Sahu S/o Late Shivilal Sahu, Aged About 38 Years R/o House of Kishor Sahu, Bangalipara, Gali No.3, Sarkanda, Thana Sarkanda, Tahsil/ Distt. Bilaspur, Chhattisgarh

---- Respondent

For Appellant	:	Mr. Samir Singh, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/08/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act preferred by the owner of the vehicle. The challenge is to the award dated 01.02.2017 passed by the Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No. 37/2013. Vide the said impugned award on an application under Section 166 of the Motor Vehicle Act, the Tribunal in an injury case has awarded compensation of Rs.1,55,000/- to the claimant with interest @ 7.5% per annum.
2. Counsel for the appellant No.2/owner challenging the award submits that it is a case where accident itself is doubtful being arisen from the vehicle owned by the present appellant. He further submits that the appellant also has not been granted sufficient opportunity to lead evidence to prove that the accident did not occur on the offending vehicle. He submits that he had moved proper application and summons also were issued for calling upon the pillion rider Nand Kumar Shriwas, who was also traveling alongwith the claimant at the time of accident, but though the summons were served, he did not

appear before the Tribunal and the appellant had requested issuance of fresh summons which was refused by the Tribunal and proceed further to decide finally. He submits that giving another opportunity, he may take steps for issuance of summons to the said witness and for recording his evidence, which could perhaps establish the fact that the accident did not occur from the use of the offending vehicle.

3. It was further contended that the Tribunal also on the said aspect of contributory negligence as the deceased and pillion rider were said to have consumed Alcohol and were driving the motorcycle under the influence of Alcohol.
4. On perusal of the contention raised by the appellants when we look into the order passed by the Tribunal it clearly reflects that, undisputedly the accident was primarily reported promptly to the police authority who were also initiated the criminal case against the driver of the offending vehicle. The appellant in the criminal case have not taken any such plea of false implication in the criminal case.
5. Further what is also reflected is that, appellant himself did not appear before the Tribunal as witness to substantiate his contentions, neither he was able to bring any other witness to disprove the case of the claimant. What is also undisputed is the fact that offending vehicle at the relevant point of time was not insured.
6. In the given factual matrix of the case, this Court is of the opinion that Tribunal below has not committed any error, both on the facts as well as on law in fixing liability of payment of compensation upon the appellant/owner.
7. The appeal thus being devoid of merit same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge