NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1288 of 2017

Ghasiyaram Sahu S/o Shri Chintaram Sahu, Aged About 55 Years R/o Village Taldevri Tahsil Champa, District Janjgir Champa Chhattisgarh

---- Appellant

Versus

1. Shivprasad Sahu S/o Shri Budgaram Sahu, Aged About 34 Years Permanent Address Village Taldevri, Tahsil Campa, District Janjgir Champa Chhattisgarh, Presently At Magarpara, Behind Civil Line Police Station, Bilaspur, District Bilaspur Chhattisgarh
2. Santosh Kumar Sahu, S/o Horilal Sahu, Aged About 22 Years R/o Village Taldeveri, Tahsil Champa, District Janjgir Champa Chhattisgarh
3. I. C. I. C. I. Lombard General Insurance Company Limited, Through Branch Manager, Shrikant Verma Marg, Linkroad, Bilaspur, District Bilaspur Chhattisgarh

----Respondents

For Appellant	:	Mr. Yogeshwar Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/10/2017

1. Heard on I.A. No.1, which is an application for condonation of delay. For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 46 days in filing the appeal stands condoned.

2. Present is an owner’s appeal under Section 173 of the Motor Vehicles Act. The challenge in the present appeal is to the award dated 29.04.2017, passed by the 2nd Additional Motor Accident Claims Tribunal, Bilaspur, Chhattisgarh, in Claim Case No. 851/2014.

3. Vide the impugned award the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation

of Rs.96,321/-. While passing the impugned award, the Tribunal has exonerated the Insurance Company of its liability and has fastened the liability of payment of compensation upon the Owner and Driver of the offending vehicle.

4. The challenge to the award is on the ground that there is no substantial evidence on record to show that the accident did occur from the vehicle belonging to the present appellant. Further, it was contended that the Tribunal has wrongly exonerated the Insurance Company though the vehicle was dully insured. Further, it was also contended by the counsel for the appellant that the alleged injury sustained by the Claimant was not from the accident from the Tractor belonging to the appellant, but was from some other ailment that he was otherwise suffering from. It was also the contention of the counsel for the appellant that there is a delay in the lodging of the FIR also which creates a great element of doubt on the claim put forth by the claimant.

5. Having heard the counsel for the appellant and on perusal of the record what clearly reflects is the fact that on 08.09.2006, an FIR was lodged in respect of an accident that took place on 23.08.2006. The reason for the delay which has been shown by the claimant is the fact that from 23.08.2006 onwards, he was under treatment and was hospitalized. Initially he was hospitalized at the Mission Hospital at Champa and thereafter he was brought to Bilaspur, where he was further admitted at the Apollo Hospital, Bilaspur till 07.09.2006 and after release on 08.09.2006 the FIR has been lodged, this by itself provide satisfactory explanation for delay in lodging of the FIR. Further, from the evidence which have come on record, it is also

established that the Criminal case was dully lodged against the Driver of the Tractor vide Crime No. 219/2006, at Police Station Jaijaipur, wherein the Driver have been prosecuted for the offence under Section 279 and 337 of the I.P.C. This further proves the accident to have occurred.

6. Further, as regards the vehicle being dully insured there has been evidence brought by the Insurance Company stating that the photocopy of a policy, which was allegedly produced by the Owner of the vehicle being duly insured was in fact a fake document. That the category of the vehicle mentioned in the said document itself shows the discrepancies. According to the witness of the Insurance Company the category code of the policy produced before the Tribunal shows it to be 3001, whereas the category code of a Tractor is 3008 and the witnesses of the Insurance Company have categorically stated of the alleged policy not being issued from any office of the Respondent No.3-Insurance Company.

7. So far as the contention of the counsel for the appellant is concerned that the vehicle number in the medical document as well as the vehicle number in the FIR was also quite different, this Court is of the opinion that the minor discrepancies would not by itself be crucial for disbelieving the entire version of the Claimant. Further, in the evidence of the appellant, he has categorically admitted the aforesaid factual aspects so far as registration of an offence against the vehicle, the vehicle being seized by the police authorities, the vehicle was subsequently released on Supurdnama applied by the present appellant, all these would show the accident to have occurred and the injuries to have suffered by the Claimant.

8. In view of the same, this Court does not find any strong material made out by the appellant calling for an interference with the impugned award, neither does this Court find the compensation amount awarded to be either exorbitant or on the higher side.

9. The appeal, thus being devoid of merit, deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge

Ved