

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1506 of 2017**

Shashibhushan Patel S/o Late Teklal Patel, aged about 43 years, R/o Village Jalki, Police Station – Tumgoan, District Mahasamund (C.G.).

Present Address : Dhanagar Bada, Bajrang Chowk, Mathpara, Raipur (C.G.).

---Appellant

Versus

1. Vishanucharan Mahanto S/o Harikrishna Mahanto, R/o Village – Chhanuwa, Police Station – Badam-Pahad, District Mayurbhanj (Orissa). (Driver)
2. Dhiraj Kumar Ram S/o Shaukilal Ram, R/o Jamdasahi, Post Jasipur, District Mayurbhanj (Orissa) (Owner).
3. Branch Manager, SBI General Insurance Company, address : 4th floor, Pujari Chambers, Dhamtari Road, Panchpedi naka, Raipur (C.G.).

---Respondents

For appellant : Shri B.L.Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

08/11/2017

1. Present is an appeal by the claimant under Section 173 of the Motor Vehicles Act assailing the award dated 25/09/2017 passed by the learned 6th Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Motor Accident Claim Case No.462/2016.
2. Vide the said impugned award, the Tribunal has rejected the claim application under Section 166 of the Motor Vehicles Act.
3. The claim raised by the appellant was for the damage caused to the vehicle from the accident.
4. Perusal of record would show, that the claim application was rejected on the ground, that the claimant have not been able to substantiate his contention by leading any substantive evidence so far as the damage caused to the vehicle and the expenses which would be incurred or which has been incurred till now.

5. The Tribunal seems to have rejected the claim application on the ground, that since, the claimant have not led any evidence in support of the expenses made in respect of the damage caused to the vehicle.

6. The counsel for the appellant prays for remanding of the matter granting the appellant one opportunity to lead evidence before the Tribunal as on an earlier date when the witness was present but because of some reason, the proceedings before the court got adjourned.

7. To this submission, there is no proof of any ordersheet being filed along with the memo of appeal to ascertain this fact.

8. The reading of paragraph 17 of the impugned award would show, that the claim application has been rejected only on the ground of non-availability of the documents and the evidence in respect of repairing of the vehicle involved in the accident.

9. Considering the fact, that the claim application under Section 166 of the Motor Vehicles Act is a social legislation it has to be liberally construed and thus this court is of the opinion, that ends of justice would meet if the appellant is granted one more opportunity to lead evidence to substantiate his claim.

10. Accordingly, let the appellant remain present before the concerned Tribunal on the 29th of this month with all the witnesses and documents that he has in his support to his claim application and the Tribunal may take the evidence of the said witnesses present on 29/11/2017 and shall pass the order afresh. It is made clear, that the appellant shall not be given an unnecessary adjournment on 29/11/2017.

11. With the aforesaid observations, the impugned award dated 25/09/2017 stands set aside and the matter is remanded back for a fresh adjudication.

**Sd/-
(P. Sam Koshy)
Judge**