

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1102 of 2014

1. Prabhu Ram Nagvanshi S/o Banka Nagvanshi Aged About 40 Years,
2. Smt. Paniyaso Bai W/o Prabhu Ram Nagvanshi Aged About 38 Years

Both R/o Village- Navapara, P.S. And Post- Sitapur, Civil and Revenue District Surguja Chhattisgarh

---- Appellants

Versus

1. Shree Prasad S/o Ujeer Sai R/o Village- Navapara, P.S. And Post- Sitapur, Civil and Revenue District Surguja Chhattisgarh
2. Bajaj Allianz General Insurance Co. Ltd. Raipur, P.S. And Post- Raipur, Civil and Revenue District Raipur Chhattisgarh

---Respondents

For Appellants/Claimants	:	Mr. Manoj Paranjpe, Advocate along with Mr. Anurag Singh, Advocate
For Insurance Company	:	Mr. Ghanshyam Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/12/2017

1. Present is a Claimants' appeal under Section 173 of the Motor Vehicles Act. The challenge is to the award dated 19.08.2014, passed by the 2nd Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja, Chhattisgarh in Motor Accident Claim Case No. 107/2013.
2. Vide the impugned award, the Tribunal has rejected the claim application of the Claimants holding that since the claim application filed being one under Section 166 of the Motor Vehicles Act, the Claimants were suppose to prove the negligence on the part of the offending vehicle, if any. In the instant case, the accident occurred

when the deceased Vidur Nagvanshi himself was driving the motorcycle belonging to the respondent No.1 and that it is a case where he had hit a wall near the road, which has caused his death and that the accident did not involve any other vehicle so as to attribute negligence.

3. The counsel for the appellants at the outset submits that the Tribunal should not have dismissed the claim application, it ought to have taken a liberal approach and should have directed the Claimants to convert the claim application into one under Section 163A, where the aspect of negligence would not have been required and makes a limited prayer for remitting the matter back to the Tribunal for fresh adjudication permitting the Claimants to convert the claim application into one under Section 163A of the Motor Vehicles Act.
4. Taking into consideration the facts and circumstances of the case, this Court is of the firm opinion that the prayer made by the counsel for the appellants is fair and reasonable and considering the fact that the provisions of the Motor Vehicles Act particularly Section 166 so also Section 163A being a liberal legislation, the Tribunal ought to have taken a more pragmatic view and should have given a liberal approach before rejecting the claim application.
5. For the aforesaid reasons the impugned award is set-aside and the matter is remitted back to the Tribunal below with a direction that the Claimants may be permitted to convert the claim application into one under Section 163A of the Motor Vehicles Act and thereafter to decide the claim application if it is not otherwise debarred under the provisions of the Motor Vehicles Act and the Tribunal may proceed

and decide the same at the earliest. This Court has not expressed any opinion on the merits of the claim application. The Tribunal would be free to decide the case strictly in accordance to law.

Sd/-
(P. Sam Koshy)
Judge

Ved