

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1738 of 2016**

- Bharat Lal Kashyap S/o Har Narayan Kashyap, Aged About 38 Years
R/o Village Navagaon, Tahsil And P.S. Katghora, District Korba,
Chhattisgarh(Claimant)

---- Appellant**Versus**

- Branch Manager, The Oriental Insurance Company Limited Transport
Nagar, Korba, District Korba, Chhattisgarh

---- Respondent

For Appellant : Shri N.K. Chatterjee, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

11/01/2017

1. The instant MAC has been preferred within its limitation.
2. Heard on admission.
3. Learned counsel for the appellant submits that the appellant filed the application under Section 163A of the Motor Vehicles Act for award of compensation. The incident is occurred on 11.8.2007. He had lodged the report on 2.6.2014. The court below has wrongly dismissed the claim hence, the appeal may be admitted for hearing.
4. Perused the award dated 11.11.2016.
5. From perusal of the facts mentioned in the award dated 11.11.2016, it appears that the incident has been occurred on 11.8.2007 and the report was lodged on 2.6.2014 i.e. after 7 years. Also the Insurance Company was not informed regarding the incident. Though the appellant was discharged from the Hospital on 21.10.2007, even thereafter till 2.6.2014 he had not lodged

any report. He failed to demonstrate that he is suffering with permanent disability which is the ingredient required for compensation under the provisions of Section 163A of the Motor Vehicles Act. Disablement certificate adduced by the applicant is for 50% disability. The Court below has appreciated that the applicant had failed to submit the evidence regarding permanent disablement and no independent witness has been examined in support of the claimant. It appears that the applicant himself had hit to the electric pole. He also failed to prove that the vehicle met with an accident which was being driven by the applicant. Upon consideration of the entire facts and material, the court below has dismissed the claim of the applicant.

6. On due consideration, I do not see any reason to interfere with the findings of the concerned Tribunal.

7. Consequently, the instant MAC is sans substance and the same is dismissed as not maintainable at the motion stage itself.

Sd/

(Chandra Bhushan Bajpai)
Judge

s/