

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 1398 of 2017

Raju Singh @ Prakash Kumar Rajput S/o Late Dev Narayan Singh Caste Rajput Aged About 32 Years R/o Village Jigdi, Police Station & Tahsil Raipur, District Balrampur Chhattisgarh, Presently Residing At In Front Of Shri Sharda Dham Gupteshwar Singh S House, Namnakala Ambikapur, Police Station Ambikapur District Surguja Chhattisgarh.

---- Appellant

Versus

1. Vijay Kumar S/o Jugeshwari Koyari Aged About 42 Years Caste Koyari Occupation Driver R/o Village & Post Salka, Police Station Udaypur, District Surguja, Presently Residing At Gandhinagar, Police Station Gandhinagar District Surguja Chhattisgarh (Driver)
2. Rajnath Yadav S/o Ramkel Yadav Occupation Pichkup Owner R/o Village Chapki Dudhi District Sonbhadra Uttar Pradesh Presently Residing At Village & Post Sahanpur, Police Station & Tahsil Lundra, District Surguja Chhattisgarh.
3. The Oriental Insurance Company Limited, Through Branch Manager, Branch Office Ambedkar Chowk Manendragarh Road Ambikapur District Surguja Chhattisgarh. (Insurance Company).

---- Respondents

For Appellant	:	Shri CJK Rao, Advocate.
For Respondent No.3	:	Shri Sudhir Agrawal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy
Order On Board

15/11/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act against the award dated 29.07.2017 passed by the 5th Additional Motor Accident Claims Tribunal, Ambikapur, (in short, the Tribunal) in Claim Case No.285/2015.
2. Learned counsel for the appellant at the very outset makes a limited prayer for remanding the matter before the Tribunal as the claimant in the instant case could not adduce the evidence of doctor nor could obtain the disability certificate from the District Medical Board for proving the permanent disability. Referring to the injuries as is

reflected in the award, he submits that pursuant to the injuries sustained, the appellant had been hospitalized initially at Holly cross Hospital, Ambikapur and thereafter was referred to the Apollo Hospital, Bilaspur, and from where he was later on taken to Ramkrishna Care Hospital, Raipur and for all these period he was hospitalized for a considerable long time. He further submits that by virtue of accident he has become permanently disabled.

3. In the given facts and circumstances of the case, accepting the claim application under the MV Act to be a part of liberal legislation, this court is of the opinion that ends of justice would meet if the matter is remitted back to the Tribunal with liberty to the appellant to prove his permanent disability, if any, with proper certificate to that effect from the District Medical Board. It is ordered accordingly. The respondent-insurance company shall also have liberty to rebut the evidence, if any, brought by the appellant. The appellant shall have liberty of getting the doctor, if any, examined either on summons or by commission.
4. Since the parties are present before this court, they shall appear before the concerned claims Tribunal on 05.12.2017. It is expected that the Tribunal shall proceed further and decide the matter expeditiously after granting reasonable time to both the parties.
5. The impugned award dated 29.07.2017 thus stands set aside and the matter is remitted back.

Sd/-
(P. Sam Koshy)
Judge