

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 62 of 2018**

Dhyandas Gabel S/o Pratap Singh Aged About 68 Years R/o Devri,
Police Station And Tahsil Sakti, District Janjgir Champa
Chhattisgarh, Chhattisgarh

---- Appellant**Versus**

1. Manharan S/o C.P. Suryawanshi Aged About 67 Years R/o. Police Station And Tahsil Sakti, District Janjgir Champa Chhattisgarh, Chhattisgarh
2. Anshuman Murarka S/o Durga Datt Aged About 31 Years R/o Vyapar Vihar, Bilaspur Chhattisgarh
3. Branch Manager United Insurance Company Limited, 2nd Floor, Gurukripa Tower, Vyapar In Front Of Amber Auto Mobile, Bilaspur Chhattisgarh
4. Branch Manager Oriental Insurance Company Limited, Branch Champa, City Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh

---- Respondents

For Appellant	:	Ms. Priya Mishra, Advocate under instructions of Mr. Yogesh Chandra Sharma, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****19/02/2018**

1. The present is an appeal by the Claimant under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 21.11.2017, passed by the 1st Additional Motor Accident Claims Tribunal, Sakti, District Janjgir-Champa, Chhattisgarh, in Claim Case No. 44/2016.
2. Vide the impugned award; the Tribunal has rejected the claim application under Section 166 of the Motor Vehicles Act filed by the Claimant.
3. The contention of the counsel for the appellant is that the Tribunal has erroneously rejected the claim application only relying upon a portion of the cross-examination whereby it was stated that it is

correct that he had in connivance with Nitin Yadav got prepared a false proceeding against the respondents. The counsel for the appellant further submits that the Tribunal ought to have appreciated the entire evidence which have come on record and should have further appreciated all the material facts which are available and should have proceeded in a more pragmatic and liberal manner and prayed for setting aside of the award and remitting the matter back for a fresh adjudication.

4. The perusal of the record would shows that there were other evidences also produced by the Claimant along with the claim petition. Further what is also relevant is that the incident is dated 24.04.2016, which took place at around 11:30 PM and the F.I.R. was lodged on the very next day. There were other records from the criminal case also available before the Tribunal, so also there were other evidences which have been adduced by the Claimant. The Tribunal should therefore have considered all these factors and decided the claim application and thus prayed for setting aside of the impugned award.
5. Having heard the contentions put forth on either side and on perusal of record, this Court is of the opinion that rejection of the claim application only on the ground that the Claimant has in his cross examination in paragraph No.15 has stated that there was a false proceedings drawn in connivance with Nitin Yadav so as to get the claim, seems to be too harsh an order.
6. The Tribunal in a proceeding under Section 166 of the Motor Vehicles Act should be more liberal and pragmatic while deciding the case. Once where there is sufficient evidence adduced by the

Claimant, the Tribunal is required to consider each of the documents and the statements of the witnesses examined to ascertain whether the fact which has been narrated by the Claimant and his witnesses are to be believed or not and thereafter should have decided the matter on merits.

7. In the instant case, there does not appear to be a detail examination of the witnesses and the evidences, particularly the documentary evidences, which have come on record including that of the documents of the criminal case registered.
8. In view of the same, this Court is of the opinion that ends of justice would meet if the award of the Tribunal is set-aside and the matter is remitted back to the Tribunal for passing a fresh award taking into consideration the entire evidence and depositions which have come on record.
9. It is made clear that this Court has not expressed any opinion on the merits of the case. The parties to the dispute in addition may also be granted an opportunity to lead additional evidence, which they have in their possession in addition to what have already been brought on record to substantiate their contentions and thereafter proceed and decide the matter at the earliest afresh.
10. The appeal thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge