

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 196 of 2018

1. Suresh Mahto, S/o. Bhagwat Mahto, Aged About 45 Years, R/o. Koiri, Post Tarar, Police Station Daud Nagar, District Aurangabad, Bihar, Presently Residing At C/o. Rajkumar @ Raju Agrawal Village Bonda, Police Station Saria, Tehsil Baramkela, District Raigarh, Chhattisgarh.
2. Raju @ Rajkumar Agrawal, S/o. Banarsi, Aged About 42 Years, R/o. Village Bonda, Police Station Saria, Tehsil Baramkela, District Raigarh Chhattisgarh.

---- Petitioners

Versus

1. Kartik Ram Majhi, S/o. Maniram Majhi, Aged About 42 Years.
2. Jambuwati, W/o. Kartikram, Aged About 38 Years.
Both are R/o. Village Naoghata, Police Station Saria, Tehsil Baramkela District Raigarh Chhattisgarh.
3. Magma HDI General Insurance Limited, Through Branch Manager, 102 Indira Commercial Complex, B.H. Hotel, Natraj Transport Nagar Korba, Tehsil And District Korba Chhattisgarh.

---- Respondents

For Petitioner : Mr. Rakesh Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07.03.2018

Heard

1. The instant petition is against the order dated 05.01.2018 passed by the Additional Motor Accident Claims Tribunal, Sarangarh, District Raigarh, wherein an application to stay the claim case has been refused.
2. It is contended by the learned counsel for the petitioners that the petitioners are Driver & Owner of the alleged vehicle wherein the allegations have been clamped that it was involved in the accident wherein two persons died. It is stated that actually the vehicle was not at all involved in this case and this fact was revealed in the separate investigation which was carried out by the Additional

Superintendent of Police and the departmental enquiry was also ordered against one Ramprasad Baghel for falsely implicating the vehicle of the petitioners in the accident. He submits that in the criminal case on the same ground, an application was filed to exonerate the petitioners, however, the same having been refused, it was subject of challenge in CRMP No.1286 of 2016 wherein the co-ordinate Bench of this Court by an order dated 24.11.2016 has stayed the proceedings of the criminal case. It is stated that when the vehicle was not involved in any accident, the finding which may come in the claim petition may lead to proceed in futility.

3. Perused the order dated 05.01.2018. The respondent No.1 & 2 are the applicants in the claim case wherein it was alleged that the vehicle of the petitioners was involved in accident. The accident took place on 07.02.2016. Perusal of the claim case would show that the vehicle bearing No.C.G.10 M-0240 said to be alleged to be involved in the accident, therefore, only for the fact that Additional Superintendent of Police, Raigarh, has exonerated the vehicle of the petitioners of the accident, the claim case preferred by respondents cannot be stayed as the beneficiary of the claim case are the non-applicants No.1 & 2 who have lost their near & dear one. The petitioners if is sanguine of the fact that the vehicle was not involved in the accident, the same can be proved in the claim case also by adducing proper evidence and the claims Tribunal would be the adjudicating authority to decide the same. Therefore, the balance of convenience to grant stay in favour of the petitioners do not exists by evaluating the interest of respondents No.1 & 2 who are the claimants before the Court below in the claim case. The petitioners shall be at liberty to

adduce necessary evidence before the claims Tribunal to prove the fact that the alleged vehicle was not involved in the accident. In view of this, I am not inclined to interfere with the order passed by the Court below.

4. Accordingly, the petition is dismissed at the admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge

Ashok