

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 565 of 2018**

M.S. Parmar S/o Late Shri Ramshankar Singh Parmar Aged About 44 Years R/o Near Sai Mangalam Vidyut Nagar, Police Station Pulgaon, District Durg, Chhattisgarh (Claimant).

---- Appellant

Versus

1. Gajanad Krishna S/o Bhaiyalal Nishad Aged About 34 Years R/o Indira Nagar, Kohka, Bhilai, Tahsil & District Durg, Chhattisgarh (Driver of Vehicle Bolero No. C.G.-07-LU-4444).
2. Suraj Sahu S/o Kishore Kumar Sahu Aged About 36 Years R/o Quarter No. 406, Road No. 10, Model Town, Bhilai, Police Station Supela, Tahsil And District Durg, Chhattisgarh (Owner of Vehicle Bolero No. C.G.07-LU-4444).
3. M/s Payal Fertilizers Through Proprietor, Office-208, Lalganga Midas Fafadih, Raipur, Tahsil And District Raipur, Chhattisgarh (Owner of Vehicle Fiat Punto Car No. C.G.-04-HN-7716).
4. Reliance General Insurance Co. Ltd. Registered Office Reliance Sector 19, Balchand Heerachand Road, Bellard Estate, Mumbai-400001, Through The Branch Manager, Branch Office Shop No. 516, Fifth Floor, National Corporate Park, Commercial Complex, G.E.Road, Raipur, Tahsil & District Raipur, Chhattisgarh (Insurer of Vehicle Fiat Punto Car No. C.G.-04-HN-7716).

Note : The respondents No. 2 to 4 were not permitted to array as party respondents in the claim petition, though the appellant had filed an application for arraying them as party respondents in the claim petition, but the same was rejected, however for proper adjudication of the appeal, the said respondents are necessary party, therefore they have arrayed as respondents in this appeal.

---- Respondents

For Appellant	:	Mr. B.P. Singh & Mr. Shikhar Bakhtiyar, Advocates
For Respondent No. 1	:	Mr. Vikas Shrivastava, Advocate
For Respondent No. 4	:	Mr. Sourabh Sharma & Mr. Tarkeshwar Nande, Advocates

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

23/07/2018

1. This appeal is preferred under Section 173 of the Motor Vehicle Act, 1988 against the award dated 24.02.2018 passed by the 7th Additional Motor Accident Claims Tribunal, Durg (C.G.) in Claim Case No. 192/2015 wherein, the said tribunal dismissed the

application filed by the appellant under Section 166 of the Motor Vehicle Act on account of injury caused to him in a motor accident dated 23.10.2014.

2. As per the application, the appellant was going by his vehicle Fiat Punto Car bearing registration No. C.G.-04-HN-7716 and when he reached near Nehru Nagar, P.S.- Supela, Bhilai (C.G.), one vehicle Bolero bearing registration No. C.G.-07-LU-4444 dashed his vehicle and injured him as well as his vehicle.
3. The claim of the appellant is based on FIR, seizure of vehicle and documents regarding treatment. In FIR, only vehicle bearing registration No. C.G.-07-LU-4444 is mentioned, but name of the driver is not mentioned. No driving license was produced before the tribunal to show that present respondent No. 1 was driving the vehicle at the time of incident.
4. Again, no registration certificate of the said vehicle was produced before the tribunal to show as to who is registered owner of the said vehicle. For establishing negligent on the part of the driver, it is to be established that driver was driving the vehicle negligently and owner can be fastened with liability. But in absence of any document as to who was driving the vehicle at the time of incident, it cannot be ascertained that respondent No. 1 was driving the vehicle negligently.
5. Again, in absence of registration certificate, liability cannot be fastened on any one as owner of the said vehicle. In absence of prima facie evidence regarding negligency of the driver, liability cannot be fastened on driver or owner of the said vehicle.
6. Again there is no prima facie evidence that vehicle was insured by owner of the said vehicle, therefore, liability cannot be fastened on

any insurance company. In absence of basic evidence, the tribunal is right in rejecting the application filed by the appellant.

7. Accordingly, the appeal being devoid of merit is hereby dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge