

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 498 of 2018**

- Nagesh Kumar Yadav S/o Tulsiram Yadav, Aged About 19 Years R/o Village Sukli, Police Chowki Giraudhpuri, P.S. Gidhauri, District Baloda Bazar Bhatapara Chhattisgarh. (Claimant),

---- Petitioner

Versus

- Vijay Kumar S/o Bharat Prasad Jaiswal, Aged About 26 Years R/o Village Sukli, Police Chowki Giraudhpuri, P.S. Gidhauri, District Baloda Bazar - Bhatapara Chhattisgarh. (Owner And Driver Motor Cycle Bearing No. C.G. 04 D.U. 3539),

---- Respondent

For Petitioner	:	Shri SK Verma, Advocate
For Respondent	:	Ms. Neha Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****19/07/2018**

1. Heard.
2. The present petition is against the order dated 18.05.2018, whereby an application filed under Order 16 Rule 1 read with Section 151 CPC and Section 169 of the Motor Vehicle Act, was dismissed. By the effect of the order, the prayer made by the petitioner to call for the doctor to examine in his favour was dismissed on the ground that the respondent has admitted the fact that the treatment was admitted to have been given by the doctor.
3. Perused the order dated 18.05.2018, which records that the prayer to examine the doctor has been dismissed. The application to call for the doctor is also filed as Annexure P-2, perusal of it shows that the

petitioner/claimant has prayed for to examine doctor Ganesh Vinayak, Eye Hospital Raipur, Dr. Vinay Jaiswal, Ganesh Vinayak Eye Hospital Dhamtari Road Raipur and Dr. Rupesh Verma, Neuron surgeon, Shri Narayana Hospital. In the opinion of this Court, as the claim case has been preferred by the petitioner, it necessarily requires the evaluation of the quantum of injury and disability, if any. In order to ascertain the same the evidence of doctor in such eventuality would be necessary to arrive at finding of just compensation which may be awarded by the Court. The denial to examine the doctor because of the fact that the doctors have treated have been admitted by the opponent cannot prove the extent of injury sustained by the petitioner/claimant. The claim petition being in summary nature at the time of the evaluating the quantum of compensation, the statement of the doctors would be necessary. Consequently, the order dated 18.05.2018 is set aside. The application filed under Order 16 Rule 1 CPC is allowed. The petitioner shall be at liberty to call for the doctor through the intervention of the Court to produce them as a witness to prove the quantum and degree of disability if any sustained by the petitioner.

4. With such observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu