

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1282 of 2015**

1. Deelam Singh Thakur, S/o Dhan Singh Thakur aged about 26 years, R/o Village- Shirhapara Retawand R/o Village- Shirhapara Retawand, Thana- Bhanpuri (C.G.), Distt.- Bastar.

---- Appellant/claimant**Versus**

1. Keshav Lal Yadav S/o Budhsan Yadav aged about 30 years. Occupation -Driver, R/o Village- Khashpara Village Baniyagaon Thana- Bhanpuri Distt.- Baster(C.G.).
2. Vikash Jha S/o Krishna Kant Jha Baster Chouk- Village Post-Baster Tahsil- Baster, Distt.- Baster (C.G.).
3. The Oriental Insurance Company, Through Branch Manager Main Road Jagdalpur (C.G.).
4. The National Insurance Company, Through Branch Manager -In front of Chief Post Office Main Road Jagdalpur (C.G.).

---- Respondents

For Appellants	:	Shri A. L. Singroul, Advocate.
For Respondent No. 3	:	Shri H. P. Agrawal, Advocate.
For Respondent No. 4	:	Shri Shivendu Pandya, Advocate

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****21/02/2019**

01. This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 16.04.2015, passed by Additional Motor Accidents Claims Tribunal (FTC), Jagdalpur (CG) in Claim Case No.29/2013 whereby the Claims Tribunal has rejected the claim petition filed by the claimant holding that on ample opportunity

from 23.03.2013 to 4.4.2015 given by the Tribunal but no one appeared on behalf of the claimant before the Tribunal and no evidence adduced by the claimant and not taken any interest to prosecute the claim petition filed under Section 166 of the Motor Vehicle Act.

02. As per claim story, on 23.05.2010 at about 02.30 am at the relevant time, the appellant Deelam Singh along with his friend was going from Shirhapara to his village retawand when they reached near Shirhapara the offending vehicle (Bus) bearing registration No. CG17ZA/0136 by rash & negligent driving dashed the Deelam Singh due to which he sustained injury. The offending vehicle was driven by respondent No. 1 owned by respondent No.2 and insured with respondent No.3.

03. Learned counsel for the appellant/claimant submits that the Tribunal has wrongly rejected the claim petition filed by the claimant on the date of accident Advocate of the claimant met with an accident so he could not present before the Tribunal. The Tribunal has to consider the difficulty of the claimant and the genuine claim put forth by him and ought not to have dismissed the suit for want of prosecution.

04. Learned Counsel for the respondent No. 3 and 4 supported the award and submits that the claim petition filed by the claimant on 26.02.2011 thereafter case was fixed for evidence on 24.02.2012 and after continuing the case was fixed for hearing on different date i. e. **23.03.13, 18.06.2013, 14.08.2013, 27.09.2013, 28.11.2013, 14.02.2014, 19.06.2014, 19.06.2014, 22.07.2014, 21.08.2014, 23.09.2014, 13.12.2014, 06.02.2015, 04.04.2015** and last opportunity with warning was given to the claimant and the case was fixed on 16.04.2015 but on that day also no one appeared on behalf of the claimant neither the claimant was appeared before the Tribunal. Therefore, the Tribunal has rightly dismissed the claim of the

05. Heard learned counsel for the parties and perused the impugned award.

06. From perusal of the order under challenging dated 16.04.2015, it is quite evident that number of opportunities as many as 13 to 14 were granted to the appellant/claimant but he remained absent all the time. Therefore, considering the conduct of the claimant the Tribunal rejected the application filed under Order 17 Rule 1 of the CPC as also the claim filed by the claimant. Considering the reasons assigned in the impugned order by the Tribunal for dismissing the suit of the claimant this Court is of the opinion that no interference in the said order is required by this Court.

07. Resultantly, the appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-

(Gautam Chourdiya)
Judge