

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP227 No. 644 of 2019**

Branch Manager, National Insurance Co. Ltd. Kamthi Line,
Rajnandgaon, District Rajnandgaon, Through Division Manager
Divisional Office Vyapar Vihar Road Bilaspur, District Bilaspur,
Chhattisgarh.

---Petitioner

Versus

1. Kamlesh Kumar Dhalal S/o Late Narad Kumar Dhalal, Aged about 20 years.
2. Manish Kumar Dhalal S/o Late Narad Kumar Dhalal, Aged about 19 years (Now).
3. Shivcharan Dhalal S/o Late Budhiya Dhalal, Aged about 62 years.

All are Residents of Village and P.S. Bagandi Tahsil Churiya, District Rajnandgaon, Chhattisgarh. (Claimants)

4. Preetpal Singh @ Tikku S/o Gurdeep @ Ajeet Singh, aged about 42 years, R/o Gurunank Nagar, Opposite Gurudwara Usha Kunj, Bhilai P.S. Supela, District Durg, Chhattisgarh. (Driver cum Owner)

---- Respondents

For Petitioner : Mr. P.K. Tulsian , Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

22/08/2019

1. By the impugned order dated 16/07/2019, learned Additional Motor Accident Claims Tribunal, Rajnandgaon has closed petitioner company's opportunity to lead evidence against which this writ petition under Article 227 of the Constitution of India has been preferred.

2. Learned counsel for the petitioner submits that learned Claims Tribunal is absolutely unjustified in declining the time sought by the petitioner company to examine respondent No. 4/ driver cum owner of the vehicle as a witness, in order to effectively establish his case, as such, the impugned order deserves to be set aside.
3. I have heard learned counsel for the petitioner, considered his submissions and went through the records.
4. Respondent No. 4/ driver cum owner of the vehicle, whom the petitioner company wanted to examine as a witness, has expressed his desire of not getting examined and not to lead any evidence before the Claims Tribunal himself. Moreover, earlier learned Claims Tribunal had fixed the date of 21/06/2019 for non-applicant's/ petitioner company's evidence. On that day, the petitioner company failed to keep their witnesses present before the Claims Tribunal and sought further time to lead evidence. As prayed, the matter was again fixed on 03/07/2019, but the petitioner company failed to examine their witnesses then too and asked for another opportunity. Learned Claims Tribunal finally fixed the date of 16/07/2019 and granted final opportunity to the company to lead evidence warning them that if they failed to keep their witness present on that day, their opportunity to adduce evidence will be closed. On 16/07/2019, the petitioner company again failed to keep their witnesses present and their opportunity to lead evidence was finally closed.
5. Once the respondent No. 4/ driver cum owner of the vehicle has expressed his unwillingness to get himself examined as a witness before the Claims Tribunal, he cannot be compelled to get examined as a witness on behalf of the petitioner company against his wish.

Even otherwise, many opportunities were given to the petitioner company by learned Claims Tribunal to lead evidence but they failed to do so and only then, their opportunity to lead evidence was closed.

In view of that, I do not find any merit in this writ petition.

6. This writ petition deserves to be and is accordingly dismissed. No cost(s).

**Sd/-
(Sanjay K. Agrawal)
Judge**

Hameet