**AFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

**Order reserved on 05.10.2020**

**Order pronounced on 08.12.2020**

**MAC No. 1000 of 2014**

1. Rajeshwari, W/o Late Mahettar Singh Aged About 43 Years, R/o village Jarwe, Tah. Baloda, Distt. Janjgir-Champa C.G., Presently R/o Qtr. No. A-24, Indira Vihar, Seepat Road, P.S. Sarkanda, Distt. Bilaspur, Chhattisgarh Claimant-1
2. Minor Ku. Shivani D/o Late Mahettar Singh Aged About 17 Years, Claimant-2
3. Minor Atul Kumar S/o Late Mahettar Singh Aged About 9 Years, Claimant-3

   Appellants- 2 and 3 Thru- Mother Smt. Rajeshwari

   R/o village-Jarwe, Tah. Baloda, Distt. Janjgir-Champa C.G., Presently R/o Qtr. No. A-24, Indira Vihar, Seepat Road, P.S. Sarkanda, District : Bilaspur, Chhattisgarh

**---- Appellants/Claimants**

**Versus**

1. Rasool Mohammed, S/o Ibrahim Mohammed Aged About 44 Years R/o Deepka Colony, Q.No. M.A./553, Tah. Katghora, Distt. Korba, Chhattisgarh (Driver) NA1
2. General Manager, South Eastern Coalfields Limited, Deepka Coal Mine No. 2, Tah. Katghora, Distt. Korba C.G., Thru- Incharge Deputy Chief Engineer Mining, South Eastern Coalfields Ltd., Deepka Coal Mines, Tah. Katghora,District : Korba, Chhattisgarh NA2

**-----Respondents**

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| For Appellants | : | Shri Chandresh Shrivastava, Advocate |
| For Respondent-1 | : | Shri Kalpesh Ruparel, Advocate |
| For Respondent- 2 | : | Shri Atul Kesharwani, Advocate |

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**Hon'ble Shri PR Ramachandra Menon, Chief Justice &**
**Hon'ble Shri Justice Parth Prateem Sahu**
**CAV Order**

**Per Parth Prateem Sahu, J.**

**1.** Appellants / Claimants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the impugned award dated 26.08.2014 passed by the Motor Accidents Claims Tribunal, Korba (for short, 'Claims Tribunal') in claim case-126 of 2009 whereby learned Claims Tribunal dismissed the claim application as not maintainable.

**2.** Facts relevant for disposal of this appeal are that Mahettar Singh was working with SECL, Dipka Coal Mines 2 on the post of EPGH. On 08.06.2009, at about 1.50 am Mahettar Singh along with other co-employees was attending electrical defect at savel No.139 at Coal Mines 2. Mahettar Singh was handing over the articles / equipments from ground to upside, while so one dozer No. 11015 (hereinafter, referred to as 'offending dozer') driven by NA-1 rashly and negligently knocked down Mahettar Singh and caused accident. In the said accident, Mahettar Singh suffered grievous injuries over his person, his right leg was separated and he became unconscious on spot. He was taken to Shatabdhi Hospital, Gevra where doctor examined Mahettar Singh and declared him brought dead.

**3.** Claimants who are widow and children of deceased Mahettar Singh filed application under Section 166 of the Act of 1988 seeking compensation of Rs.5,35,000/- pleading therein that on the date of accident deceased was earning Rs.27,000/- per month while working as EPGH with SECL.

**4.** NA-1 while admitting the fact of accident, denied all other pleadings made in the claim application. It was further pleaded that the pleadings made in the application were fabricated, deceased met with an accident on account of his own negligence and died due to the accidental injuries.

**5.** NA-2, employer-SECL submitted reply to claim application and denied the happening of the accident on account of rash and negligent driving of the offending dozer by NA-1. Widow of the deceased has been given compassionate appointment on the post of category 1 at Head Office, Bilaspur. Accident took place in mines. Dozer does not come within the purview of "Motor Vehicle" under the Act of 1988 and there is no provision for its registration with the RTO. SECL being a Public Sector Undertaking of Central Government and in discharge of legal liability, amount of compensation under the Workmen Compensation Act 1923 was deposited with Commissioner but, in absence of appearance of claimants even after service of notice by the Labour Court, amount of compensation deposited by NA-2 was returned back.

**6.** Based on the pleadings made by the respective parties, learned Claims Tribunal has formulated as many as eight issues for consideration, including the issue with regard to the maintainability of the claim application under issue No. 6 & 7. Upon appreciation of pleadings and evidence placed on record by the respective parties learned Claims Tribunal arrived at a conclusion that the application filed under Section 166 of the Act of 1988 by the claimants was not maintainable and dismissed the application vide impugned order.

**7.** Shri Chandresh Shrivastava, learned counsel for the appellants submits that learned Claims Tribunal erred in arriving at a finding that the application filed under Section 166 of the Act of 1988 is not maintainable in the facts of the case by recording a finding that the offending dozer with which the deceased suffered accident does not come within the purview of "Motor Vehicle", hence, the claim application filed under Section 166 of the Act of 1988 is not maintainable; and further erred in holding that the place of accident is not a public place, hence the claim application is not maintainable. He submits that the offending dozer comes under the definition of the 'Motor Vehicle' as envisaged under Section 2 (28) of the Act of 1988. Referring to Rule 2 (ca) of Central Motor Vehicle Rules 1989 he submitted that the Rule includes the dozer to be a motor vehicle. Undisputedly, the accident took place within the mining area but it is accessible to all persons after taking permission from the SECL / Authority. He places his reliance in support of his submission in the matters of,

- **SECL Bishrampur and others Vs Bharti Devi and others,** reported in (2011) 3 CGLJ 204;

- **Western Coal Fields Ltd. Nagpur Vs State of Maharshtra** reported in LAWS (BOM) 2003 (9) 86;

- **Western Coal Fields Ltd. Vs. State of Maharashtra and another** (Civil appeal No.2708 of 2004); and

- **Chairman, Rajasthan State Road Transport Corporation and others Vs. Smt.Santosh and others** reported in AIR 2013 SC 2150.

**8.** Per contra, Shri Atul Kesharwani, learned counsel for respondent-2 SECL submits that the vehicle in question i.e. offending dozer, is not used on roads. Accident took place in mining area which is restricted area, and as such, is not having access for ride of public. He submits that the offending dozer is not adaptable for use on roads as it is not fitted with rubber tyres or steel drums but with a collar chain. Dozers as involved in this case are exclusively used in the closed premises like mining area of SECL. He submits that learned Claims Tribunal after taking into consideration, the entirety of the facts, class and use of the dozer involved in the accident, its adaptability to be used on roads and further considering the place of accident, has rightly dismissed the claim application filed under Section 166 of the Act of 1988, which does not call for any interference. He further pointed out that definition of Motor vehicle or vehicle as envisaged under Section 2 (28) of the Act of 1988 is very clear that which of the vehicles fall within the purview of sub-section 28 of section 2 of the Act of 1988.

**9.** In support of his submissions, he places reliance on the matters of,

- **Rolani Ores Ltd Vs State of Orissa and other connected cases** reported in (1974) 2 SCC 777;
- **Mohni Kumar and others Vs Punjab State and others** reported in1998 ACJ 783; and
- **Central Coalfields Limited Vs State of Bihar and others** reported in 2007 ACJ 117.

**10.** Learned counsel further submits that respondent-2 while discharging its legal liability, has immediately deposited amount of compensation after calculating it in terms of Workmen Compensation Act, 1923. The amount of compensation calculated by respondent-2 was deposited with the Labour Court but when the claimants even after service of notice did not approach the court of Commissioner, the amount deposited by respondent-2 was returned to the company.

**11.** Shri Punit Ruparel, counsel appearing for respondent-1 supports the impugned award.

**12.** We have heard learned counsel for respective parties and also perused the record of the claim case.

**13.** From the pleadings made in the claim application and evidence led by the parties, employment of the deceased with NA-2, accident of the deceased during the course of his employment at Dipka Coal Mines 2, and involvement of dozer bearing No.11015 in the accident are not in dispute. The accidental death of the deceased took place at 1.50 am in the night while discharging his duties under the employment with NA2 at Dipka Coal Mines 2. In reply to claim application, respondent-2 very specifically pleaded that offending dozer is a machinery used in mines. There was no provision for its registration under the Motor Vehicles Act. Hence, case under the provisions of the Act of 1988 is not maintainable. It was also pleaded that the Police while investigating the crime of accident, have seized the offending vehicle and it could not be taken to Police Station but was kept in the garage of respondent, as it is very heavy machinery.

**14.** In view of submissions of respective parties, referring to the pleadings and the impugned award passed by learned Claims Tribunal, question arises for consideration before this court is, whether the offending dozer comes within the definition of “Motor Vehicle”, and claim application filed under Section 166 of the Act, 1988 is maintainable in the facts of the case.

**15.** FIR lodged on account of accidental death of the deceased is placed on record as Ex.P2 and Final Report submitted by the Police after conclusion of the investigation is placed on record as Ex.P1. In both these documents, the vehicle involved is shown / mentioned as dozer No.11015.

**16.** Appellant 1 / claimant 1 was examined as AW2 to prove her case. In her evidence she stated that accident of her husband was with dozer No.11015 driven by NA1 / respondent-1. She also stated that her husband was working at Dipka Coal Mines and during the course of his employment, accident took place. She also admits that the place of accident is inside the mines. One Abhilash Kumar Sahu was examined as AW2 to prove the accident to be on account of rash and negligent driving of dozer by NA-1. This witness admits that on the date of accident he was working over the machine and the deceased was working under the machine. Further in his cross-examination he admits that the road for going to coal mines is not a public road and the general public cannot use the road for their conveyance. He also admitted that dozer is used only in mines and not elsewhere.

**17.** NA1 / driver of offending dozer was examined as NAW1. One RL Rathore, Sr.Manager was examined as NAW2 in support of NA2. In his evidence he stated that dozer comes within the category of heavy machinery. It is a vehicle which does not run on the public road. Dozer involved in the accident runs within the premises of mines. Learned Claims Tribunal has recorded a finding that the dozer involved in the accident was fitted with collar chain with its wheels.

**18.** Learned counsel for the appellants has not disputed this fact recorded by learned Claims Tribunal in paragraph-17 of impugned award.

**19.** To appreciate the submissions made by learned counsel for the appellants, we have gone through the definition of 'Motor Vehicle' as envisaged under Section 2 (28) of the Act of 1988, which reads as under:

> “Section 2(28) ”motor vehicle” or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any fitted with engine capacity of not exceeding (twenty-five cubic centimetres);”

**20.** Definition of 'Construction Equipment Vehicle' as envisaged under the Central Motor Vehicles Rules, 1989 under Rule 2 (ca) as it stood prior to 2015 is extracted below for ready reference:

> “construction equipment vehicle” means rubber tyred, (including pneumatic tyred), rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle or combination thereof designed for off-highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with “on or off” or “on and off” highway capabilities.

Explanation- A construction equipment vehicle shall be a non-transport vehicle the driving on the road of which is incidental to the main off-highway function and for a short duration at a speed not exceeding 50 kms per hour, but such vehicle does not include other purely off-highway construction equipment vehicle designed and adopted for use in any enclosed premises, factory or mine other than road network, not equipped to travel on public roads on their own power;]

**21.** Application for seeking compensation to be filed before Claims Tribunal is envisaged under Section 165 of the Act of 1988. Relevant portion of which is extracted below:

165. Claims Tribunals.— (1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both.

Explanation.—For the removal of doubts, it is hereby declared that the expression “claims for compensation in respect of accidents involving the death of or bodily injury to persons arising out of the use of motor vehicles” includes claims for compensation under section 140 (Added by Act of 54 of 1994, sec 52 w.e.f.14.11.1994) [and section 163A].

**22.** From perusal of above provision, the application for grant of compensation before the Claims Tribunal is maintainable only when accidents involving death or bodily injury of a **“person” arising out of the use of motor vehicle.** The application before the Tribunal will only be maintainable if the death or injury is caused by use of motor vehicle.

**23.** Now question arises is whether the dozer comes within the purview of motor vehicles as defined under Section 2 (28) of the Act of 1988 or not. Motor vehicle or vehicles which is mechanically propelled vehicle adopted for use upon road has been included within the definition of motor vehicles and in the definition of motor vehicle, the vehicles have been excluded from the definition of 'motor vehicle' which are running upon fixed wheels or vehicle of a special type adopted for only use in factory or any other closed premises.

**24.** Rule 2 (ca) of the Rules, 1989 defines the Construction Equipment Vehicle in which it is specifically mentioned that it should be rubber tyred, rubber padded or steel drum wheel mounted, meaning thereby the vehicles mentioned therein and having wheels of a prescribed type, only will come within the purview of Rule 2 (ca) of the Rules, 1989. Under the explanation clause of said Rule in which again there is an exclusion of the vehicle which are to be used incidentally on highway and the vehicle / equipment designed adopted for use in any closed premises, factory or mines other than road net work.

**25.** In view of the aforementioned definitions as discussed above, if the facts of this case are considered, it would be apparent that the finding recorded by learned Claims Tribunal that offending dozer involved in the accident was running on collar chain and not on the rubber tyres, or rubber padded or steel drum wheel mounted is not in dispute. When once it is admitted by learned counsel for the appellants that the vehicle involved in the accident is a dozer run on collar chain wheels, it is apt clear that it cannot be adopted for use upon roads though it is mechanically propelled vehicle. It clearly specifies its use to be in any closed premises, factory or mines, other than road net works.

**26.** Motor vehicle or vehicles which are adapted for use upon roads are only included within the definition of 'motor vehicle' as provided under Section 2 (28) of the Act of 1988 and further under Rule 2 (ca) of the Rules, 1989, vehicles which is manufactured for its use, with 'on or off' or 'on and off' highway capabilities. In view of the finding recorded by learned Claims Tribunal in its order paragraph-17 that offending dozer was a collar chain fitted vehicle, it cannot be said that the said vehicle can also be used on highway or public road.

**27.** Hon'ble Supreme Court while considering the case of **Rolani Ores Ltd Vs State of Orissa and other connected cases** reported in (1974) 2 SCC 777 has considered the word 'motor vehicle' for the purposes of its registration and held as under:

> "15. In all these cases the common question would be whether the definition of a 'motor vehicle' as it existed before the Amendment Act of 1956 is the same as in s. 2(c) of the Taxation Act or does the definition in s. 2(c) of the Taxation Act mean that the motor vehicle as defined in the Act from time to time is to be adopted for the purpose of s. 2(c) of the Taxation Act. In so far as the larger question is L251 Sup.CI/75 concerned, as,to Whether dumpers, rockers and tractors are motor vehicles at all within the meaning of the first part of the definition of 'motor vehicle' in s. 2 (18) of the Act, which is the same before and after the amendment, it is contended that these vehicles are :not suitably adapted for use upon roads, which according to the learned Advocates mean the public roads or roads, to which the public has a right of access. The Motor Vehicles Taxation Acts are enacted in exercise of the powers conferred on the State Legislatures under entry 57 of List II of the Seventh Schedule to the Constitution, while the Motor Vehicles Act is enacted by the

Parliament in exercise of the 'concurrent legislative power in entry 35 of List III of the Seventh Schedule to the Constitution. Entry 57 of List II empowers legislation in respect of taxes on vehicles, whether mechanically propelled or not,suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III. The power exercisable under entry 57 is the power to impost taxes which are in nature of regulatory and compensatory measures. The regulatory and compensatory nature of the tax is that the taxing power should be exercised to impose taxes on motor vehicles which use the roads in the State or are kept for use thereon either throughout the whole area or parts thereof and are sufficient to make and maintain such roads : See The Automobile Transport (Rajasthan) Ltd. v. The State of Rajasthan and others.(1) In this case, the earlier decision in Atiabari Tea Company Ltd. v. The State of Assam and others (2) was considered. Since the taxing statute is a regulatory or compensatory statute, it is contended that the provisions of ss. 6B, 7, 9A of the Taxation Act relate only to the actual use of the public road. It is pointed out that s. 6 of the Taxation Act does not place the burden of taxation on the registered owners of the motor vehicles, but only on the persons who keep the motor vehicles for use which would mean use their on the public roads. If no such use of public roads is made or the vehicles are not such as can be used on the public roads, then no tax could be levied under the Taxation Act. Reference in the Taxation Act to the registered owners is, it is submitted, meant only for the purpose of enabling refund of tax paid but not payable in terms of the Act, or s. 7 of the Taxation Act. Under Entry 35 of the Concurrent List, the Parliament as well as the State Legislatures can legislate in respect of only mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied. It has no power to deal with vehicles which are not mechanically propelled though under the Taxation Act these non- mechanically propelled vehicles which are suitable for use on roads can also be taxed even without their being registered under the Act. It will thus be seen that while entry 57 of List II is solely concerned with taxes on vehicles whether mechanically propelled or not, entry 35 deals with also the principles on which taxes on such vehicles are to be levied. Taxes on vehicles cannot the liability to pay taxes at the rates at which the taxes are to be levied. On the other hand, the expression 'principles of taxation' denote rules of guidance in the matter of taxation.

The ambit and amplitude of these two legislative entries in the respective Lists was dealt within State of Assam Vs Labenya Probha Debi, where Suba Rao CJ., speaking for the. Constitution Bench of this Court observed at p. 614

> "The two entries deal with two different matters though allied ones- one deals with taxes on vehicles and the other with the principles on which such taxes are to be levied. when two entries in the Constitution, whether in the same List or different Lists, deal with two subjects, if possible, an attempt shall be made to harmonize them rather than to bring them into conflict. Taxes on vehicles in their ordinary meaning connote the liability to pay taxes at the rates at which the taxes are to be levied. On the other hand, the expression " principles of taxation" denotes rules of guidance in the matter of taxation. We, therefore, hold that the Amending Acts do not come into conflict with the existing law in respect of any principles of taxation, but only deal with a subject- matter which is exclusively within the legislative competence of the State Legislature."

It is contended that having regard to the nature of the vehicles question they are particularly suitable for the functions they are performing and unsuitable for the roads on which they would be only a source of damage, inconvenience, danger and uneconomical compared with the other vehicles usually utilised for transport of goods. Accordingly it is submitted that : (1) the present case should be determined with reference to the definition of 'motor vehicle' read without the amendment in the Act, as such vehicles operating solely within the appellants' premises should not be liable to tax; (2) the vehicles not being suitable for public roads would not be either registered or taxed whether before or after 1956. Both for the purposes of registration and taxation the common question arises, viz., whether the vehicles in question are adapted for use upon roads, which, it is submitted, are public roads or roads to which public have a right of access. If they are not, then they are not 'motor vehicles' within the meaning of either the Act or the Taxation Act; (3) the concept 'adapted for use on roads' must lie within the ambit of the expression used by the Constitution; otherwise it would be unconstitutional. It must, therefore, follow that the definition can only refer to vehicles which are reasonably suitable for the road in the sense that an average man could think that plying of the vehicles on the road would be one of the normal uses of the vehicles. That alone would be a test of suitability; and (4) for the interpretation of s. 22 of the Act it would be permissible and even obligatory to examine the section not in isolation but in the light of the object and scheme- of the Act and the regulatory provisions regarding the licensing of drivers, issuing of permits, provisions for compulsory registration and other regulatory provision are confined to the vehicles on the public roads. The provisions of s. 22 are definitely to advance the objects of the Act and to effectuate the regulatory provisions. By the very language the principal purpose is to insist upon registration in respect of vehicles plying in public places. Further, the expression must be interpreted to advance the object of the Act exactly as the other para of s. 22 does. In this view the expression "purpose of carrying passengers or goods" cannot mean the personal use of the owner. A person himself cannot be the passenger and goods, and as such it must not be interpreted disjunctively. It is a single expression "passenger or goods". It is conceivable that this alternative part of the section is only to ensure that in connection with the journey on a public road even if a motor vehicle goes into a place which will not be strictly a public place like hotel or inside a railway, such as in a Railway Station, or even inside the premises of a bus depot, hospitals, etc. provisions for compulsory registration should be applicable. The judgment of the High Court is assailed on the ground that while formulating the test to determine whether a vehicle is adapted for use on the roads it has evidently equated compatibility with suitability, because at certain places it has laid down the test in terms of compatibility and at other places in terms of suitability. This is clearly illustrative by its decision regarding 'tractor'. A tractor without a tailor can neither carry passengers nor goods. In the instant case, it is said that the tractor cannot ply in a public place, nor does it ply in any other place for carrying passengers or goods. It could not evidently fall within s. 22 of the Act. Though this is so, the High Court says that because it can be adapted by attaching a tailor, it comes within s. 2(18), forgetting that what we are concerned with is a tractair without a tailor which is actually used to supply compressed air to certain plants or machines, which clearly shows that the High Court did not have a correct concept of "adapted for use on road".

16. Shri Soli Sorabji on behalf of the interveners has more or less adopted a similar line of argument and has referred us to the several dictionary meanings of the word 'adapted'. He has also referred to the English cases on this question and submitted that no vehicle cam be taxed unless it possesses the attribute of being "suitable for use on roads". The expression "adapted for use on roads" must be construed as suitable for use on roads in the light of entry 57; otherwise, the legislation would be ultra vires the said entry, and consequently such a construction should be avoided by courts. He further submitted that the Orissa High Court has misconstrued the judgment of the, Supreme Court in State of Mysore v. Syed Ibrahim,(1) where the observations were made with reference to the definition of "a public service vehicle" as defined in s. 2(25) of the Act, under which user by itself was sufficient to bring the vehicle within its purview. He has referred us to ss. 47(f), 55(f), 71(2), 74, 75(1) and (3) and 77 of the Act in support of his proposition that having regard to the general object, purpose and the policy underlying the Act the expression "roads" must mean public roads and not private roads. If so, the dumpers, rockers and tractors etc. which do not ply or are not suitable for plying on public roads cannot be either registered under the Act or taxed under the Taxation Act.

22. As usual references have been made to the Dictionaries but quite often it is not possible to hold a dictionary in one hand and the statute to be interpreted in the other for ascertaining the import and intent of the word or expression used by the Legislature. The shade of meaning of a word, its different connotations and collocations which one finds in a dictionary does not relieve us of the responsibility of having to make the ultimate choice of selecting the right meaning We choose that meaning which is most apt in the context, colour and diction in which the word is used. The use of a dictionary ad lib without an analysis of the entire Act, its purpose and its intent, for ascertaining the meaning in which the Legislature could have used the word or expression may not lead us to the right conclusion. With this caution before us for avoiding any of the aforesaid methods which might lead to a possible incongruity, we will examine the different facets to which our attention has been drawn.

23. The meaning of the word "adapted" in s. 2(18) of the Act is itself indicated in entry 57 of List II of the Seventh Schedule to the Constitution, which confers a power on the State to tax vehicles whether propelled

> mechanically or not and uses the word "suitable" in relation to its use on the roads. The words "adapted for use" must therefore be construed as "suitable for use". At any rate, words "adapted for use" cannot be larger in their import by including vehicles 'Which are not " suitable for use' on roads. In this sense, the words "is adapted" for use have the same connotation as "is suitable " or" is fit" for use on the roads.”

**28.** Hon’ble Supreme Court in the aforementioned judgment had held that the vehicles adoptable or suitable for running on the road to be included under the definition of motor vehicles. The vehicle involved in the case at hand as discussed above was fitted with collar chain which will damage the road if it is used on the road as such not adaptable for use on roads. Hence, this vehicle will fall within the exclusion clause of definition under Section 2(28) of the Act of 1988 and also the excluded clause of explanation of Rule 2(ca) of the Rules of 1989.

**29.** Case law relied upon by learned counsel for the appellants in **Bharti Devi**, **Western Coal fields Ltd Nagpur** and **Smt Santosh** (supra) is not applicable to the facts of this case.

**30.** In the aforementioned cases, the vehicle involved is dumper or tractor fitted with rubber tyres or wheels as mentioned under Rule 2(ca) of the Rules 1989. In the aforementioned cases consideration was whether the offending vehicle comes within the definition of motor vehicle and as per the adaptability of those vehicles for use upon roads have passed judgments. As we have already stated that the dozer which is involved in the accident in case at hand is collar chain fitted vehicle, it runs on collar chain and does not form part of Motor Vehicle mentioned under Rule 2 (ca) of the Rules, 1989. In view of above, we are unable to accept the submission made by learned counsel for the appellants that the vehicle involved comes within the definition of motor vehicles as provided under Section 2 (28) of the Act of 1988 and Rule 2 (ca) of the Rules, 1989 and it is hereby repelled.

**31.** We are of the considered view that the dozer which is involved in the accident is not adaptable for its use on roads but its use in closed premises, factory or mines only. The accident took place in mines. For the foregoing reasons, we do not find any infirmity or perversity in the impugned award passed by learned Claims Tribunal.

**32.** For the foregoing reasons, the appeal being devoid of any substance, it is liable to be and is hereby dismissed.

**33.** However, taking into consideration that the claimants have lost their bread winner on 08.06.2009 and respondent-2 had already calculated the amount of compensation and also deposited with the competent authority but was returned back to the respondent-2 as it was not accepted by the appellants, we find it appropriate to direct the respondent-2 to again deposit the amount of compensation as worked out under Workmen Compensation Act, 1923 (Now Employee Compensation Act, 1923) within a period of three weeks from today. Upon depositing such amount of compensation, the Commissioner shall disburse the same upon filing of the appropriate application by the appellants.

Sd/-
**(PR Ramachandra Menon)**
**Chief Justice**

Sd/-
**(Parth Prateem Sahu)**
**Judge**

padma