

HIGH COURT OF CHHATTISGARH, BILASPUR**M.A.(C) No. 831 of 2015****Reserved on 11.08.2020****Pronounced on 14.08.2020**

- Deelip Kumar @ Brijesh Kumar S/o Ramjan Harijan Aged About 29 Years R/o Village Madhala Perswani Tahsil-Sonhat- District- Koriya, Chhattisgarh. **---- Appellant**

Versus

- Samay Lal S/o Bhola Sahu Aged About 41 Years R/o Village Kushmaha Bhalughulan- Tahsil- Sonhat District- Koriya, Chhattisgarh.
- Bhodhmani Pandey S/o Mangal Prasad Pandey (Now Died) R/o Village Kachar Tahsil- Sonhat, District- Koriya, Chhattisgarh.
2(a)2 Ajay Pandey S/o Late Bhodhmani Pandey Aged About 37 Years R/o Village Kachar Tahsil- Sonhat, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh.
2(a)3 Arvind Pandey S/o Late Bhodhmani Pandey Aged About 27 Years R/o Village Kachar Tahsil- Sonhat, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh.
2(a)4 Abhay Pandey S/o Late Bhodhmani Pandey Aged About 21 Years R/o Village Kachar Tahsil- Sonhat, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh.
2(a)5 Soniya D/o Late Bhodhmani Pandey Aged About 23 Years R/o Village Kachar Tahsil- Sonhat, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
- Branch, The National Insurance Company Ltd, Registered Office 3 Midletan Street Kolkatta 700071.
- Ramjag S/o Bechu Ram Harijan Aged About 67 Years R/o Village Madhala Tahsil- Sonhat District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
- Brach Manager, The United India Insurance Copmpany Limited, Branch Office Bramh Road Ambikapur, Chhattisgarh, Taluka : Ambikapur (Sarguja), District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Appellant:

Shri A. L. Singroul,
Advocate.

For Respondents No.1, 2(a-2) to 2(a-5) & 4:

None, though served.

For Respondent No.3:

Shri Anil Gulati, Advocate.

For Respondent No.5:

Shri Dashrath Gupta,
Advocate

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J

CAV Award/Order

1. This Miscellaneous Appeal has been preferred by the Claimant under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act, 1988') questioning the legality and propriety of the award dated 30.03.2015 passed by Motor Accident Claims Tribunal, Baikunthpur, District Koriya (C.G.) (hereinafter referred to as 'the Tribunal') in Motor Accident Claim Case No.58/12, whereby the learned Tribunal has dismissed the claim petition. The parties to this appeal shall be referred hereinafter as per their description in the Claims Tribunal.

2. Briefly stated the facts of the case are that on 18.07.2009 at about 04:00pm, Applicant Dilip Kumar @ Brijesh Kumar was returning along with his father Ramjag by his motorcycle from village Katgodi to village Madhla and as soon as they reached near the Shiv Temple of village Kushmaha, he was dashed vehemently by the offending vehicle "Truck" bearing registration number CG-16-A-1645, which was owned by Non-applicant No.2-Bodhmani Pandey (since deceased now represented by his legal representatives) and was insured with Non-applicant No.3-National Insurance Company Limited. At the relevant time, the vehicle in question was being driven rashly and negligently by its driver, namely, Samaylal Sahu (Non-applicant No.1), as a result of which, the Applicant has sustained serious injuries and suffered permanent disability to the extent of 40%.

3. On account of the aforesaid accident, the Claimant has filed the claim petition under Section 166 of the Act, 1988 by submitting *inter alia* that he was an agriculturist by profession and has suffered 40%

permanent disability owing to the alleged accident, and therefore, total amount of compensation to the tune of Rs.9,81,970/- has been claimed under various heads.

4. While denying the factum of the alleged accident, the Non-applicants have contested the claim by saying that the Applicant himself was responsible for the alleged accident. It is contested further on the ground that the vehicle in question was not at all involved with regard to the alleged accident and pleaded further that a false report was lodged at police station Sonhat on 15.11.2011, i.e., more than two years after the occurrence of the alleged accident, which took place on 18.07.2009.

5. After considering the evidence led by the parties, it has been held by the Tribunal that the Applicant has failed to establish the fact that the vehicle in question was involved in connection with the alleged accident and, accordingly, dismissed the claim.

6. Being aggrieved, the Claimant has preferred this appeal. Shri A. L. Singroul, learned counsel appearing for the Appellant submits that the finding of the Tribunal, holding that the vehicle in question was not involved in connection with the said accident, is apparently contrary to law. While inviting attention to the documentary evidence, marked as Ex.P.1 to Ex.P.4, and by referring to the statements of the Claimant and his father, submits that the vehicle in question was involved in the said accident and the Applicant has suffered the permanent disability to the extent of 40%, and in such circumstances, the Tribunal ought to have allowed the claim accordingly.

7. On the other hand, learned counsel for the Respondents have supported the award impugned.

8. From perusal of the record, it appears that a claim petition has been made by the Claimant on account of the accident occurred on 18.07.2009 when he was returning along with his father from village Katgodi to village Madhla. According to the evidence led by the Applicant and his father, the report with regard to the alleged accident was lodged immediately at police station Charcha, however, no documentary evidence in order to establish the said fact has been placed on record. It appears further that a written report was lodged on 15.11.2011 with regard to the said accident after more than two years after getting the advice from his advocate even without explaining such a huge delay.

9. It is the normal rule that the person claiming compensation for personal injury has to establish negligence and the extent of loss suffered by him due to the injuries, which the claimant has completely failed to establish the same in the instant matter. In absence of any cogent and reliable evidence led by the Claimant, the Tribunal has, therefore, not committed any illegality in arriving at the conclusion that the vehicle in question was not involved in the alleged accident occurred on 18.07.2009.

10. Consequently, I do not find any substance in this appeal. The appeal being devoid of merit is accordingly dismissed. No order as to costs.

Sd/-

(Sanjay S. Agrawal)
JUDGE