

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 80 of 2020**

- Saroj Kumar Vaishnav S/o Shri Himanchal Das Vaishnav Aged About 52 Years R/o Near Chhabra Garage, Gangapur, Ambikapur, District Sarguja Chhattisgarh.Claimant,

---- Appellant**Versus**

1. Santosh Kumar Nat S/o Shri R. K. Nat R/o Gohparu Chuhari, District Sahdol, Madhya Pradesh Driver Dubey Travels Bus Service.Driver,
2. Brajesh Kumar Dubey S/o Mani Lal Dubey Occupation- Owner Of Vehicle, R/o Raman Mandir, Fafadih, Raipur Chhattisgarh.Owner Of Vehicle.
3. The Oriental India Insurance Company Limited Through Branch Manager, 2nd Floor Chawala Complex, Sai Nagar, Devendra Nagar Road, Raipur, District Raipur Chhattisgarh.Insurance Company.

---- Respondent

For Appellant	: Shri Manoj Kumar Sinha, Advocate.
For Respondent No.2	: Shri J.K. Gupta, Advocate.
For Respondent No.3	: Shri Sudhir Agrawal with Shri P. Dutta, Advocates.

Hon'ble Shri Deepak Kumar Tiwari, J**Order On Board****08/11/2021 :**

1. This Appeal has been preferred against the impugned order dated 13.12.2019 passed by the Motor Accident Claims Tribunal, Ambikapur in claim case No.233/2019 whereby the claim petition has been dismissed on the ground that it has been filed after 6 months whereas the new Motor Vehicle (Amendment) Act, 2019 has been made effective from 1st September, 2019.
2. It is not disputed that the incident took place on 2.6.2018 and the claim

petition was filed on 10th December, 2019 and apparently, it was filed beyond 6 months.

3. The seminal question arising for deciding this Appeal is whether the provisions contained under the proposed Section 166 (3) of the Motor Vehicles Act, which was published in the Gazette of India on 28th August, 2019, would be applicable in the present time or not.
4. Heard learned counsel for the parties and perused the impugned order.
5. The Motor Vehicles (Amendment) Act, 2019 was published in the Gazette of India on 9th August, 2019. Section 1 of the said Act speaks about the Motor Vehicles (Amendment) Act, 2019. Section (2) of the said Act is relevant which reads as under:-

“(2). It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.”

6. The Allahabad High Court in **Shailendra Tripathi and another Vs. Dharmendra Yadav and others** reported in 2020 SCC Online All 1360, has specifically held that [Sections 50](#) to [57](#) of the Motor Vehicles (Amendment) Act, 2019 Act are yet to be notified.
7. This Court also in the matter of **Mukesh Patle Vs. Shailendra Verma**, decided on 20.01.2021, has held that Section 53 and some other Sections are yet to be enforced. Similarly, the High Court of Sikkim in **Prethivi Raj Rai v. The Secretary, Sikkim Nationalized Transport Department & Another** (MAC No.4 of 2021, decided on 23.04.2021) has held that the proposed amendment to Section 166 of the Motor

Vehicles Act, which is yet to be enforced would have no effect.

8. Learned counsel for the Insurance Company would place reliance on a decision of the Hon'ble Supreme Court in the matter of **Vinod Gurudas Raikar Vs. National Insurance Co. Ltd and Others** {AIR 1991 SC 2156} and make submission that after coming into force of the new Act, the claim petition was filed belatedly. He supports the impugned order and submits that the Appeal deserves to be dismissed.
9. The case law referred by the Insurance Company is distinguishable on facts, as now it is established that the new Amendment Act is yet to be enforced and under the old Act, there was no limitation for filing of claim petition. The position is that Section 166 of the Motor Vehicles Act, 1988 would still govern the limitation as on today.
10. Therefore, the impugned order is not sustainable and is accordingly quashed. The learned Claims Tribunal shall proceed as per Section 166 read with Section 168 of the Motor Vehicles Act, 1988, as till date the amended Section dealing with Chapters 10, 11 and 12 have not been brought on statute book substituting the earlier provision, to pass order in accordance with law.
11. With the aforesaid observation, this Appeal is allowed.
12. The parties are directed to appear before the Claims Tribunal, Ambikapur on **8th December, 2021.**

Sd/-
(Deepak Kumar Tiwari)
Judge

Barve