

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 28 of 2021**

- Pawan Kumar Agrawal R/o Ramji Agrawal, aged about 42 years, R/o Chhotemath Para, Saranggarh, Tahsil and Post Saranggarh, Civil and Revenue District Raigarh Chhattisgarh (Driver)

---- Petitioner**Versus**

1. Basant Kumar Agrawal S/o Mahavir Prasad Agrawal Occupation Business, R/o Kachahri Gali, Saranggarh, Tahsil and Thana Saraggarh, District Raigarh Chhattisgarh.
2. Smt. Ratna Devi, W/o Basant Kumar, Occupation Housewife, R/o Kachahri Gali, Saranggarh , Tahsil and Thana Saraggarh, District Raigarh Chhattisgarh.
3. Rakesh Kumar Agrawal, S/o Basant Kumar Agrawal, aged about 24 years, R/o Kachahri Gali, Saranggarh , Tahsil and Thana Saraggarh, District Raigarh Chhattisgarh.
4. Dinesh Kumar Agrawal S/o Basant Kumar Agrawal Aged About 29 Years R/o Kachahri Gali, Saranggarh , Tahsil and Thana Saraggarh, District Raigarh Chhattisgarh. (Claimant)
5. Bedhram S/o Shesh Ram, aged about 45 years, R/o Mahakampuram, Post Hardi, Thana Saranggarh, District Raigarh Chhattisgarh.(Owner)
6. The Oriental Insurance Company Limited Branch Office Itwari Bazar, Raigarh Tahsil & District Raigarh (CG) (Insurance Company).

---- Respondents

For Petitioner : Mr. S.S. Rajput, Advocate

Hon'ble Shri PR Ramachandra Menon,CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board**Per Parth Prateem Sahu, J****08/03/2021**

1. Petitioner has filed this review petition seeking review of the order dated 08.10.2020 passed by this Court in MAC

No.209/2016 whereby appeal filed by petitioner herein against the award dated 01.08.2014 passed by the learned 1st Additional Motor Accident Claims Tribunal, Raigarh in Claim Case No.8/2013 has been dismissed.

2. Mr. Sachin Singh Rajput, learned counsel for the petitioner in submits that at the time of accident, petitioner was not driving the offending vehicle and one Chhabilal was driving it. There is specific pleading in this regard and petitioner has also been acquitted of the charges levelled against him under Section 304 (A) & 338 of the Indian Penal Code by the Judicial Magistrate 1st Class, Saraipali vide judgment dated 8.7.2005 passed in Criminal Case No.449/2000. He further submitted that evidence of Ramkumar (AW-2) has not been properly appreciated and finding with regard to breach of conditions of insurance policy has been recorded.
3. We have heard learned counsel for the petitioner.
4. Both the grounds urged by learned counsel for petitioner to seek review of the order dated 8.10.2020 have been argued by learned counsel representing appellant-owner in the batch of appeals, the same have been considered and decided by this Court in Paragraph No.23 to 28. The scope of review is very limited and an order or judgment is open to review only if there is a mistake or an error apparent on the face of record. Review petition cannot be a substitute of an appeal and the Court exercising review jurisdiction cannot consider and hear

review petition as an appeal. Hon'ble Supreme Court in case of **Smt. Meera Bhanja vs Smt. Nirmala Kumari Choudhury** reported in **AIR 1995 SC 455** and **Surendra Kumar Vakil & ors vs. Chief Executive Officer, MP & ors** reported in **(2004) 10 SCC 126** has considered the issue with regard to grounds on which review petition can be considered. Points which have already been argued and considered cannot be a ground for review. Recently, the Hon'ble Supreme Court in case of **Asharfi Devi vs. State of UP** reported in **(2019) 5 SCC 86** has held that every factual or legal error cannot be made subject matter of review.

5. Considering the grounds raised by the petitioner in these review petitions and taking into consideration the aforementioned rulings of Hon'ble Supreme Court, we are of considered view that review petitioner failed to point any error apparent on the face of record warranting review of the order dated 8.10.2020.
6. Review petition being *sans merit* is liable to be and is hereby dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-