

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 362 of 2016

1. Anup Singh Rai, S/o. Devendra Singh, Aged About 30 Years, R/o. Bhairamdev Ward Jagdalpur, District-Bastar Chhattisgarh.

---- Petitioner

Versus

1. Narendra Singh, S/o. Badan Singh Aged About 26 Years R/o. Hat Kachora Jagdalpur P. S. Bodhghat District Bastar Chhattisgarh..... Driver.
2. Santosh Rao, S/o. Vankat Rao Aged About 30 Years R/o. Hat Kachora Jagdalpur P. S. Bodhghat District Bastar Chhattisgarh..... Owner.

---- Respondents

For Petitioner	: Mr. Pravin Kumar Tulsyan, Advocate.
For respondents	: Mr. Vikash A. Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

25/08/2021

1. This petition under Article 227 of the Constitution of India has been brought being aggrieved by the order dated 12.5.2016 passed by the Motor Accident Claims Tribunal (for short 'MACT'), Bastar at Jagdalpur, Chhattisgarh, by which the application filed by the petitioner/applicant in the claim case praying for withdrawal of the claim case under Order 23 Rule 1 of the C.P.C. which should have been allowed that petitioner should have been granted opportunity to file fresh claim case, as the petitioner was required to make additional statement in his claim case.
2. Learned counsel for the respondent submits, that the petitioner has opportunity to make amendments in the claim petition and proceed

with the same case, therefore, there was no requirement for withdrawal of the claim case. No error has been committed by the learned MACT. The impugned order is sustainable.

3. I have heard the party and perused the documents on record.
4. Considered on the submissions. It is to be taken note of that the claims tribunal is not a Civil Court and the proceedings taken up before the claims Tribunal are of summary nature, although the proceeding in the claim case requires an inquiry to be made. The procedure that is to be followed is provided under Section 169 of the Motor Vehicles Act, 1988.
5. In the case of Mantoo Sarkar v. Oriental Insurance Company Ltd. & Ors., reported in (2009)2 SCC 244. It was held in paragraph No.14 as under:-

“14. No doubt the Tribunal must exercise jurisdiction having regard to the ingredients laid down under sub-section (2) of [Section 166](#) of the Act. We are not unmindful of the fact that in terms of [Section 169](#) of the Act, the Tribunal, subject to any rules, may follow a summary procedure and the provisions [of the Code](#) of Civil Procedure under the Act has a limited application but in terms of the rules 'save and except' any specific provision made in that behalf, the provisions [of the Code](#) of Civil Procedure would apply. Even otherwise the principles laid down in [the Code](#) of Civil Procedure may be held to be applicable in a case of this nature. “

6. As it is already mentioned that the provision of Code of Civil Procedure, 1908 not fully applicable, it has been further clarified in Rule 240 of M.P./C.G. Motor Vehicle Rules, 1994, which is as follows:-

“240. Procedure to be followed by Claims Tribunal in holding enquiries. - Application of certain provisions of Code of Civil Procedure 1908; Save as otherwise expressly provided in the Act or these rules, the following provisions of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) namely, those contained in Order V, Rules 9 to 13 and 15 to 20, Order IX, Order XVIII, Rules 3 to 10, Order XVI, Rules 2 to 21, Order XVII, Order XXI and Order XXIII, Rules 1 to 3 shall

apply to proceedings before a Claims Tribunal in so far as they may be applicable thereto.”

7. As the Rule 240 of the Rules, 1994 includes the application of Order 23 Rule 1 of CPC, hence, for the reason that the order 23 Rule 1 of CPC is applicable to the claim proceedings in view of the provision mentioned hereinabove. The present petition deserves to be allowed. The impugned order is set aside. The learned MACT, Bastar at Jagdalpur is directed to reconsider on the application filed by the petitioner and pass order in accordance with law and specifically the rules provided under M.P./C.G. Motor Vehicle Rule, 1994.
8. Accordingly, the petition is allowed as disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha