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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.378 of 2015**

{Arising out of order dated 12.02.2015 passed by the Additional Motor Accident Claims Tribunal, Link Court, Dongargarh, District Rajnandgaon, Chhattisgarh in Claim Case No.15 of 2013}

Smt. Radha Pandey W/o Sushil Kumar Pandey Aged About 56 Years by Occupation House Wife, R/o Bhagatsingh Chowk (Badhwa Chowk), Dongargarh, Distt Rajnandgaon Chhattisgarh

---- Appellant**Versus**

1. Rajeshwar Dubey S/o Late Gulabdhhar Aged About 45 Years by Occupation Goldsmith shop R/o Shitla Mandir Chowk, Kawardha Distt. Kabirdham Chhattisgarh
2. Vimal Kumar Dubey S/o Shitaldhar Dubey Aged About 26 Years R/o Puraina Post, Telibandh, Raipur Chhattisgarh
3. The Oriental Insurance Company Ltd. Through Branch Manager, Branch Office Kawardha, Distt. Kabirdham Chhattisgarh

---- Respondents**MAC No. 379 of 2015**

{Arising out of order dated 12.02.2015 passed by the Additional Motor Accident Claims Tribunal, Link Court, Dongargarh, District Rajnandgaon, Chhattisgarh in Claim Case No.14 of 2013}

Ramsingh Sen S/o Ramkewal Sen Aged About 61 Years, by Occupation Barber R/o Bhagatsingh Chowk (Badhwa Chowk) Dongargarh District Rajnandgaon Chhattisgarh

---- Appellant**Versus**

1. Rajeshwar Dubey S/o Late Gulabdhhar Aged About 45 Years, by Occupation Goldsmith shop R/o Shitla Mandir Chwok Kawardha Distt. Kabirdham Chhattisgarh
2. Vimal Kumar Dubey S/o Shitaldhar Dubey Aged About 26 Years R/o Puraina Post, Telibandh, Raipur Chhattisgarh
3. The Oriental Insurance Company Ltd. Through Branch Manager, Branch Office Kawardha, Distt. Kabirdham Chhattisgarh

---- Respondents

For Appellants

: Shri Shalvik Tiwari, Advocate on behalf of
Shri Parag Kotecha, Advocate.

For Respondent/Insurance Company : Shri R.N. Pusty, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Narendra Kumar Vyas, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

24.03.2021

1. Both these appeals have arisen out of the same accident occurred on 17.07.2012. The Appellants were travelling in the Tata Sumo Spacio Vehicle bearing No.CG-04/HA/6098. While proceeding along the road, it is stated that the driver lost control over the vehicle and hit against a tree, whereby serious injuries were caused to the Appellants, which was sought to be compensated by filing claim petitions : Claim Case No.15 of 2013 (*Smt. Radha Pandey v. Rajeshwar Dubey and Others*) and Claim Case No.14 of 2013 (*Ramsingh v. Rajeshwar Dubey and Others*) under Section 166 of the Motor Vehicles Act. The claim was resisted from the part of the insurer on the question of negligence and quantum besides pointing out that the Claimants had not proven the accident by producing necessary records including the First Information Report. The nature and extent of injuries were also the subject matter of dispute. On conclusion of the trial, the Tribunal observed that the accident was not proved by the Claimants and in the said circumstance, no much reliance was placed upon the documents produced from the part of the Claimants in support the injuries stated as suffered by them. It was accordingly that the claim petitions were dismissed as per the award dated 12.02.2015, which is sought to be challenged by filing these appeals.
2. We heard Shri Shalvik Tiwari, the learned counsel for the respective Appellant and Shri R.N. Pusty, the learned counsel representing the Insurance Company.

3. It is brought to our notice by the learned counsel for the Appellants that there was on "own damage claim" preferred by the owner of the vehicle in respect of the damage suffered to the vehicle in the accident occurred on 17.07.2012. The said claim was considered by the Insurance Company and the amount due has already been satisfied. In the said circumstance, it was to open for the Insurance Company to have doubted or contested the occurrence of the accident and as such, the verdict passed by the Tribunal requires interference.
4. When the matter came up for consideration earlier, the Insurance Company was required to file affidavit as to whether there was any 'own damage claim' from the part of the insured and the same was settled. Pursuant to the said direction, affidavit dated 06.02.2021 has been filed on 18.02.2021 from the part of the Insurance Company, wherein it has been conceded that such a claim was preferred by the insured in respect of the accident occurred on 17.07.2012 and that the claim has already been satisfied from the part of the Insurance Company by effecting the payment of a sum of Rs.60,000/- on 28.03.2014, in full and final satisfaction.
5. In view of the above turn of events, whereby the Insurer has admitted the involvement of the vehicle bearing No.CG-04/HA/6098 in the accident, which was occurred on 17.07.2012 leading to the satisfaction of 'own damage claim' preferred by the insured, it is no more open for the Insurer to contest the occurrence of the accident, though there may be dispute with regard to the extent of injuries suffered and the actual amount of compensation payable to the Claimants.
6. In the said circumstance, we find it appropriate to interdict the award

passed by the Tribunal, holding that the accident stands admitted by the Insurer and remit the matter for fresh consideration with regard to the nature of injuries stated as suffered by the Claimants and as to the actual compensation payable, if any. It is ordered accordingly.

7. The Appellants and the Insurance Company are required to be present before the Tribunal on '26.04.2021' as agreed by both the parties. Since the matter is quite old enough, the Tribunal is required to have the claim considered and finalized in accordance with law, as expeditiously as possible, at any rate within 'three months' from the date of receipt of a copy of this judgment.

The appeals stand disposed of as above.

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

Sd/-
(Narendra Kumar Vyas)
Judge