



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 1615 OF 2019

1. Sau. Nalini w/o Vinayak Chavhan
Aged 65 years, Occ. Owner
2. Mr. Vinayak s/o Mairam Chavhan (dead)
Aged 68 years, Occ. Driver,

Both the appellants residing at
R/o. Quarter No. M.I.G. 409,
Padmnabhpur, Durg,
District – Durg (C.G.)
Legal Representatives of Appellant No.2

- a. Sau. Nalini w/o Vinayak Chavhan
Age – Adult, Occ. Homemaker,
R/o. Quarter No. M.I.G. 409,
Padmnabhpur, Durg, District – Durg (C.G.)
- b. Sumedh Vinayak Chavhan
Age 48 years, Occ. Service,
R/o. Jankalyan Nagar Malad (W)
Mumbai.
- c. Sushil Vinayak Chavhan
Age 46 years, Occ. Advocate,
R/o. Quarter No. M.I.G. 409,
Padmnabhpur, Durg, District – Durg (C.G.)
- d. Sudhanshu Vinayak Chavhan
Age 44 years, Occ. Advocate,
R/o. Quarter No. M.I.G. 409,
Padmnabhpur, Durg, District – Durg (C.G.)

... Appellants

Versus

Smt. Shantabai wd/o Gopal Bawankule
Aged 52 years, Occ. Farmer,
R/o Near Sant Dnyaneshwar Sabhagruh,
Ganesh Ward, Shahapur,
Tahsil and District – Bhandara

...Respondent

Mr. U.J. Deshpande, Advocate for appellants.
Mr. D.W. Khobragade, Advocate for respondent.

CORAM : ROHIT W. JOSHI, J.
DATE : 17.02.2025.

ORAL JUDGMENT:

Heard finally with consent of learned counsel for the parties.

(2) The present appeal is preferred against the judgment and award dated 25.04.2017 passed by the learned Member, Motor Accident Claims Tribunal, Bhandara in M.A.C.P. No.126/2015. The sole respondent is the original claim petitioner. She had filed petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation under Section 166 of the Act on account of permanent disability allegedly suffered in a motor accident, involving a car owned by appellant No.1, which was driven by the deceased-appellant No.2 at the relevant time.

(3) The learned Tribunal has awarded compensation placing reliance upon disability certificate and discharge summary

issued by a private Doctor, working with a private hospital. The Doctor/s, who has issued the certificate and discharge summary and has/have treated the respondent was/were not examined. The learned counsel for the appellant has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of ***Raj Kumar Vs. Ajay Kumar and anr. reported in 2011 (1) SCC 343***, to contend that the compensation could not have been awarded relying upon certificate/discharge summary by a Private Doctor, unless he is examined. The learned counsel for the respondent does not dispute the legal position.

(4) In view of the aforesaid, with the consent of the parties, the appeal is partly allowed. Judgment and award dated 25.04.2017 passed by the learned Member, Motor Accident Claims Tribunal, Bhandara in M.A.C.P. No.126/2015 is quashed and set aside. The matter is remanded back to the learned Tribunal for deciding the matter afresh, after affording an opportunity to both parties to file documents and examine witnesses, if they so desire.

(5) The parties shall appear before the learned Tribunal on 21.03.2025. Parties are put to notice that separate notice will not be issued for appearance. Since the matter pertains to the year 2015,

the learned Tribunal is requested to decide the claim petition finally within a period of one year from the date of appearance of the parties.

(6) The Court fee be refunded to the appellant, in view of the remand, if it is otherwise, permissible in law.

(7) Office to ensure that the record and proceeding reaches to the learned Tribunal before the date fixed for appearance.

(8) Pending application(s), if any, stands disposed of.

[ROHIT W. JOSHI, J.]

Prity