



2025:CGHC:39125



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 1137 of 2019**

Aghan Singh Tumreti S/o Shri Daniram Tumreti Aged About 38 Years R/o Village - Dumarkoat (Jarhapara) Thana - Korar, Civil And Revenue District North Bastar Chhattisgarh. (Claimant),

--- Appellant**versus**

1 - Gaurav Katariya S/o Shri Surendra Kumar Katariya, R/o D.N. Tower, Second Floor Main Road Kota Raipur, Civil And Revenue District Raipur Chhattisgarh.,

2 - Icici Lombord General Insurance Company Limited Branch Office Lal Ganga Shopping Mall, Second Floor G E Road, Raipur, District Raipur Chhattisgarh.

3 - Jitendra Kumar Sharma S/o Murari Lal Sharma, By Caste - Bramhan, R/o Raipur Road Dhamtari, District Dhamtari Chhattisgarh.

4 - New India General Insurance Company Limited Branch Office First Floor Madina Building, Kachari Chowk Raipur, District Raipur Chhattisgarh.,
District : Raipur, Chhattisgarh

--- Respondents

For Appellant	:	Mr. Rajendra Patel, Advocate on behalf of Mr. Sunil Sahu, Advocate
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For Respondents	:	None present.
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Hon'ble Shri Justice Parth Prateem Sahu**Order On Board**



06/08/2025

1. Claimant/appellant has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') against the impugned order dated 28.02.2019, passed in Claim Case No.85/2016, whereby the learned Additional Motor Accident Claims Tribunal (FTC), North Bastar Kanker (C.G.) (for short 'the Claims Tribunal') has dismissed the claim application filed under Section 166 of the Act, 1988 on the ground that the claim application filed by the applicant/injured is not maintainable, as the accident occurred due to his own rash and negligent driving.
2. Facts relevant for disposal of this appeal are that a claim application U/s. 166 of the Act, 1988 seeking compensation was filed by the claimant/appellant against the injury suffered by him in the road accident. It was pleaded that on 22.11.2015, applicant was carrying wooden logs in his vehicle truck no.- CG/05D/4811 from Jagdalpur to Dhamtari, at around 7:00 am when he reached near NH 30 Mujalgondi turn, another vehicle truck bearing No.- CG/04JB/8774 (hereinafter called as 'offending vehicle'), which was carrying ballast moving from Dhamtari to Charama driven by Mohan Lal dashed the truck of appellant/applicant from front side, as a consequence of which both the truck overturned. In the said accident, appellant/claimant sustained injuries to his head, chest, hand, leg, and other parts of his body. Mohan Lal and Siyar Sahu, driver and conductor of the other truck bearing registration number C.G.-04-JB-8774, died on the spot. It was pleaded that the accident occurred due to the rash and negligent driving of Mohan Lal, the driver of the offending vehicle. The



claimant/applicant was immediately taken to a hospital in Dhamtari.

Considering severity of his injuries, he was referred to Narayana Hospital, Raipur, where he remained admitted from 22.11.2015 to 03.12.2015. Subsequently, he received treatment at Dr. Bhimrao Ambedkar Hospital, Raipur, and later at Government Komaldev Hospital, Kanker. He incurred substantial expenses for his medical treatment. It was further pleaded that the applicant was employed as a driver, earning Rs. 10,000/- per month and on account of motor-accidental injuries, he is now unable to do his work in the manner as he was doing prior to accident and thus suffered loss of income.

3. Non-applicant No.1 filed a reply to the claim application, denying the allegations made therein. It was pleaded that on the date of the accident, the truck belonging to Non-applicant No.1, bearing registration number CG-04-JB-8774, was being driven solely and carefully on his own side by the deceased driver, Mohan Lal. It was further pleaded that accident occurred due to rash and negligent driving of applicant, who, while driving his truck, collided with the said vehicle, resulting in the death of driver of non-applicant No.1 on the spot.
4. Non-applicant No.2 also filed reply, denying the averments made in the claim application. It was pleaded that the entire responsibility for the accident lies with the applicant/claimant, who was driving the truck bearing registration number CG-05D-4811. It was further alleged that the said vehicle was being operated in violation of the terms and conditions of the insurance policy, without a valid and effective driving



license, permit, and fitness certificate. Non-applicant No.3 and 4 also filed reply specifically denying the averments made in the application.

5. Learned Claims Tribunal, while adjudicating the matter, dismissed the claim application filed under Section 166 of the Motor Vehicles Act, 1988, on the ground that the claimant/injured is not entitled to get any compensation for the injuries suffered in the road accident, because it occurred due to his own rash and negligent.
6. Learned counsel for appellant submits that learned Claims Tribunal erred in dismissing the application of applicant overlooking the documentary and oral evidence brought on record, solely on the ground that in Claim Case No. 24/2016 and Claim Case No. 50/2016, the learned Claims Tribunal has held that the accident occurred due to rash and negligent driving of applicant/injured and liability was fixed on the insurer of the truck driven by the appellant, therefore, the appellant/injured is not liable to get any compensation for the injuries suffered by him as the accident was attributed to his own negligence.
7. I have heard learned counsel for the appellant and perused the record of claim case.
8. It is not in dispute that accident occurred as a result of a collision between two trucks one bearing registration No. CG-05D-4811, driven by the appellant/injured, and the other bearing registration No. CG-04-JB-8774, driven by Mohan Netam. It is also undisputed that, in the said accident, driver of Truck No. CG-04-JB-8774, Mohan Netam, and the conductor, Siyar Ram Sahu, sustained fatal injuries and both of them died.



9. Learned counsel for the appellant fairly submits that driver and conductor of other vehicle i.e. truck bearing No.C.G.04-JB-8774 involved in the accident, namely Mohan Netam and Siyar Ram Sahu, died as a result of the said accident and the claim applications filed by the legal representatives of the above deceased, seeking compensation for their deaths, were allowed by the competent Claims Tribunal.
10. Perusal of record would show that copy of award dated 06.12.2016 and 02.01.2017 in Claim Case No.24 of 2016 and Claim Case No.50 of 2016 are available in the record of claim case. Perusal of the aforesaid award would reveal that claim applications were filed by the legal representatives of deceased Mohan Netam and Siya Sahu respectively seeking compensation against the death of their sole bread earner arising out of the same accident which was occurred on 22.11.2015 impleading the appellant herein as non-applicant No.1 pleading therein that on the date of accident, non-applicant No.1, the appellant herein by driving the offending vehicle bearing truck No.C.G.05-D-4811 in rash and negligent manner caused accident due to which Mohan Netam, and Siya Ram Sahu died on the spot. After appreciating all the documentary and oral evidence brought on record by respective claimants, the Claims Tribunal allowed those claim applications filed by the legal representative of the deceased Mohan Netam and Siyar Ram Sahu holding the non-applicant No.1/appellant herein liable for causing the accident.
11. Further perusal of the award passed in Claim Case No. 24 of 2016 reveals that although the non-applicant/appellant herein had filed a



written reply to the claim application, but he failed to examine any witness in support of his defence. Even in the written reply, the appellant made no averment regarding having sustained any injuries in the accident. Furthermore, in paragraph 14 of the said award, the learned Claims Tribunal specifically observed that Non-Applicant No.1 therein /the appellant herein did not step into the witness box to offer any explanation or denial of the allegation that he was driving Truck No. CG-05D-4811 in a rash and negligent manner at the time of the accident. A similar observation is recorded in paragraph 11 of the award passed in Claim Case No. 50 of 2016, where the Tribunal again noted the failure of the appellant to adduce any evidence or to personally rebut the allegations made against him.

12. In both of the earlier claim cases, the appellant was afforded sufficient opportunity to be heard but neither examined himself nor produced any witnesses in his defence before the Tribunal and he did not make any claim regarding injuries allegedly suffered by him in the accident. In both previously adjudicated claim cases, the applicant/appellant, was found prima facie responsible for causing accident, which were not challenged by the applicant/appellant before any competent Court and have attained finality, and therefore, binding on the applicant/appellant.
13. The findings recorded by the earlier Claims Tribunal in both cases are duly supported by the documentary and oral evidence presented on record. Appellant, in cross-examination, admitted that earlier Claim Case No. 24 of 2016 and Claim Case No. 50 of 2016 were filed against him, and he did not challenge the awards passed in those



cases. On the other hand, non-applicants have placed clinching and admissible evidence before the Tribunal to establish the liability of the appellant/applicant for causing accident.

14. In light of the final and unchallenged findings recorded by the earlier Claims Tribunal in earlier claim case filed arising out of the same accident holding appellant negligent in accident in the absence of any new or contrary evidence, the present claim application filed by the applicant/appellant stating rash and negligent driving of driver of other vehicle is not legally maintainable. Consequently, he is not entitled to receive any compensation in connection with the accident already adjudicated upon, holding him liable for causing accident.
15. In view of the foregoing discussion, this Court is of the view that the finding recorded by the learned Claims Tribunal that the claim application filed by the appellant is not maintainable, is based on a proper appreciation of the facts and evidence on record, and does not warrant any interference.
16. Accordingly, the appeal being devoid of merit is liable to be and it is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge