



2026:CGHC:13505

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Misc. Appeal (C) No.1609 of 2016

National Insurance Com. Ltd. **Verses** Santosh Yadav & Ors.

23.12.2016	Shri Dashrath Gupta, counsel for the appellant. Heard on admission. Admit. Record of the Court below be requisitioned through usual and fax mode. At the request of counsel for the appellant, IA No.01/16 for exemption from filing of certified copy of the award, is disposed of as withdrawn as the appellant filed the same along with the memo on 23.12.2016. Also heard on IA No.02 for exemption from filing order passed in application under Section 170 of the Motor Vehicles Act, 1988. Learned counsel for the appellant places reliance on an order passed by the Hon'ble Apex Court dated 23-10-2013 in Civil Appeal No. 9427/2013 (Special Leave Petition (C) No. 22535/2009) - Bajaj Allianz General Insurance Company Ltd. -v- Kamla Sen and others, in which Hon'ble Apex Court quoted para 19 and 20 of the judgment in the matter of United Insurance Co. Ltd. -v- Shila Datta and others reported in (2011) 10 SCC 509 which are reproduced below :- “(19) Therefore, where the insurer is a party-respondent, either on account of being impleaded as a party by the Tribunal Under Section 170 or being impleaded as a party-respondent by the claimants in the claim petition voluntarily, it will be entitled to	



contest the matter by raising all grounds, without being restricted to the grounds available Under Section 149(2) of the Act. The claim petition is maintainable against the owner and driver without impleading the insurer as a party.

(20) When a statutory notice is issued Under Section 149(2) by the Tribunal, it is clear that such notice is issued not to implead the insurer as a party-respondent but merely to put it on notice that a claim has been made in regard to a policy issued by it and that it will have to bear the liability as and when an award is made in regard to such claim. Therefore, it cannot, as of right, require that it should be impleaded as a party-respondent. But it can, however, be made a party-respondent either by the claimants voluntarily in the claim petition or by the direction of the Tribunal Under Section 170 of the Act. Whatever be the reason or ground for the insurer being impleaded as a party, once it is a party-respondent, it can raise all contentions that are available to resist the claim."

The Hon'ble Apex Court set aside the impugned judgment and order passed by the High Court whereby the High Court dismissed the appeal of the appellant on the ground that since it had failed to move an application under Section 170 of the Act hence it was not open to the appellant to challenge the award of the Motor Accident Claims Tribunal, Hoshangabad in Claim Case No. 21/2008 dated 28-7-2008 except on the grounds provided under Section 149 of the Act and with this upheld the quantum of compensation as awarded by the Tribunal.

Learned counsel for the appellant submits that in the light of above cited case law, the appellant is not required to file the



order passed under Section 170 of the Act, 1988. Hence, it is prayed that the appellant may be exempted from filing certified copy of the order passed under section 170 of the Act, 1988.

On due consideration, looking to the case law cited, IA No.2 is allowed and the appellant is exempted from filing certified copy of the order passed Under Section 170 o the Act, 1988.

The appellant is directed to pay PF within seven days from today under Rules 167 & 172 of the High Court Chhattisgarh Rules, 2007 for issuance of notice to the respondents through ordinary and registered mode, returnable within four weeks along with a copy of appeal, IA No.03/16 and the documents annexed.

List this matter for hearing on IA No.31/16 after the respondents are served.

Sd/-

(Chandra Bhushan Bajpai)

Judge