
(2018) 02 CHH CK 0282

In the Chhattisgarh High Court

Case No : Miscellaneous Appeal (C) No. 517 Of 2012

Ishwar Prasad Sahu

APPELLANT

Vs

National Insurance Co. Ltd. And Ors

RESPONDENT

Date of Decision : 16-02-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2018) 02 CHH CK 0282

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Sudhir Verma

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the owner against the award dated 20.03.2012 passed by the

Additional Motor Accident Claims Tribunal, Bemetara (in short, the Tribunal) in Claim Case No.104/2010. Vide the impugned award, the Tribunal has

awarded compensation of Rs.4,36,000/- along with interest @ 6 percent per annum from the date of application.

2. While passing the award, the liability of payment of compensation has been fastened upon the appellant-owner and has exonerated the insurance company.

3. The sole ground of challenge by the appellant is that there is an element of contributory negligence which was brought before the Tribunal but the

Tribunal has not properly appreciated this aspect and therefore prayed for the award to be suitably modified.

4. The only piece of evidence which is relied upon by the appellant is that of oral statement of Yugal Kishore who was driver of the Tractor involved in the accident and who has stated that when he was going on road, a matador from the opposite direction came and dashed the Tractor resulting in accident. Except for the aforesaid oral statement made by Yugal Kishore there has to be no any evidence produced by any of the parties with which it can be proved that the Tractor had also crossed wrong side of the road when the accident had occurred. Neither was any evidence to show that the accident occurred on the middle of the road so as to presume that both the parties were equally responsible for the accident.

5. In the absence of any strong evidence in this regard led by the owner, it has has to be presumed that the findings of the Tribunal in not considering the contributory negligence to be proper, legal and justified.

6. This court thus does not find any strong case made out by the appellant to interfere with the impugned award. The appeal being devoid of merit is liable to be and is hereby rejected.