
(2025) 06 CHH CK 0175
In the Chhattisgarh High Court
Case No : MAC No. 993 of 2020

Komal @ Kamal Narayan

APPELLANT

Vs

Lokeshwar

RESPONDENT

Date of Decision : 12-06-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2025) 06 CHH CK 0175

Hon'ble Judges : Parth Prateem Sahu, J

Bench : Single Bench

Advocate : Praveen Dhurandhar, Shrishti Upadhyaya, D.L. Dewangan

Final Decision : Dismissed

Judgement

Parth Prateem Sahu, J

1. With the consent of learned counsel appearing for the parties, the case is heard finally.
2. This is the claimant's appeal filed under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988") challenging the award dated 25.01.2020 passed by learned Motor Accidents Claims Tribunal, Dhamtari (CG) in Claim Case No.02 of 2019, whereby claim application filed by the appellant/claimant has been dismissed.
3. Facts relevant for disposal of this appeal are that appellant/claimant filed an application under Section 166 of the Act of 1988 before the learned Additional Motor Accident Claims Tribunal, Dhamtari, pleading therein that on 09.07.2018, the appellant, along with his other porter colleagues, was cutting straw in the straw-cutting-machine which was operated and run with the attached Tractor number CG 05/G/8032 owned by non-applicant No.1. At 06:30 AM in the morning, suddenly appellant's right hand got stuck inside the machine along with the straw, due to which, his right hand was completely damaged below the elbow. The applicant/claimant was taken to Christian Hospital Dhamtari, where

the doctors advised to take him to Raipur in view of the severity of the injury, on which, the applicant was admitted to Rajdhani Hospital Raipur, where the applicant's right hand below the elbow was amputated. The said accident occurred because, non-applicant No.1 was not maintaining adequate safety arrangements at his workplace. The applicant was a 29-years-old healthy and strong man before the incident who was working as a porter and earning Rs. 500/- per day from which he was maintaining his family, but due to the said accident, he has become permanently disabled and unable to earn any income. Appellant/claimant prayed for total compensation of Rs. 20,00,000/- .

4. Non-applicants No.1 by submitting his written statement has specifically denied all the pleadings made in the claim application and it has been stated that on the date of the accident, appellant/claimant was doing agricultural work with the vehicle tractor no. CG 05/G/8032 and the said tractor was not used for any purpose other than agriculture. At the time of the accident, adequate safety arrangements were made by non-applicant No.1, the injuries sustained by the applicant were due to his own negligence. The vehicle was insured with non-applicant No.2/ insurance company, hence non-applicant no. No.2/insurance company is liable to pay amount of compensation, if any, to the claimant.

5. Non-applicant No.2/Insurance Company has submitted a written reply to the compensation claim and has specifically denied all the pleadings of the claim application. It has been specifically stated that the injury suffered by the appellant was not caused by the vehicle tractor number CG 05/G/8032. I.M.T. 48 is not taken by the insured which can cover the liability due to additional fittings in a vehicle. The conditions of the insurance policy have been violated by fitting and operating the paddy-straw-cutting machine with the said tractor, hence, non-applicant No.2/ insurance company is not liable to pay any amount of compensation.

6. Learned Claims Tribunal, on appreciation of pleadings and evidence brought on record by respective parties, held that non-applicant No.1 did not cause any accident. Recording a finding that the accident in which applicant/claimant suffered injury was not caused due to careless/negligent act on the part of non-applicant No.1/owner, breach of the conditions of insurance policy was not found proved, learned Claims Tribunal dismissed the claim application filed by the appellant/claimant.

7. Learned counsel for the appellant/claimant submits that learned Tribunal erred in dismissing the entire claim application overlooking the fact that appellant was working in the paddy-straw-cutting machine owned and run by respondent No.1/ non-applicant No.1 attaching it with tractor. He contended that non-applicant No.1 entered into the witness box and examined himself as NAW 1 and admitted that he was running the paddy-straw-cutting machine through his tractor and the appellant was engaged as labourer, however, he stated that the appellant met with an accident due to his own negligence. Claim application has been dismissed only on the ground that claimant/appellant failed to prove that he met with an

accident due to negligence of owner or driver of the tractor which is erroneous in view of the evidence available on record.

8. Learned counsel for respondent No.2 submits that learned Tribunal upon appreciation of pleading and evidence available on record has rightly dismissed the claim application as claimant failed to prove the negligence either on the part of owner or driver of the Tractor and has made observation in the impugned award that the appellant met with an accident and suffered injury due to his own negligence .

9. I have heard learned counsel for the parties and perused the records of the Claims Tribunal.

10. Claimant in support of his claim application has examined himself as AW.1. In his cross- examination, he admitted the fact that on the date of accident he was working in straw-cutting-machine and not in the said tractor owned by non-applicant No.1. He has further admitted that before this incident, he never did such work of paddy cutting in the paddy-cutting-machine. Non-applicant No.1/ owner of the tractor was examined as NAW1. In his evidence, he stated that he is having straw-cutting-machine, when it was being operated by appellant- Komal due to negligence of Komal his hand got bruised.

11. Perusal of the First Information Report lodged of the said accident and annexed as Ex.A-3 does not show anywhere that any careless or negligent act was done by the non-applicant No.1, as a result of which, the applicant received injury. In the First Information Report, it is mentioned that there was no safety fence or safety device installed in the paddy-straw-cutting-machine, but there is no oral or documentary evidence regarding what kind of device is installed around the said machine. There is also no evidence in the case on the point that what act of negligence was done by the non-applicant No.1 due to which the accident occurred. In the case at hand, it has not been proved by concrete oral and documentary evidence that the accident occurred due to the negligence of non-applicant No.1. Hence, the oral evidence of Non-applicant No.1 seems to be credible that the incident occurred due to applicant's own negligence.

12. To succeed in an application under Section 166 of the Act of 1988 to prove rash and negligent act of owner or driver of the motor vehicle is sine qua non. Hon'ble Supreme Court in the case of Oriental Insurance Co. Ltd vs Premlata Shukla & Ors. (2007) 13 SCC 476 held as under:-

"10. The insurer, however, would be liable to reimburse the insured to the extent of the damages payable by the owner to the claimants subject of course to the limit of its liability as laid down in the Act or the contract of insurance. Proof of rashness and negligence on the part of the driver of the vehicle, is therefore, sine qua non for maintaining an application under Section 166 of the Act."

13. For the foregoing discussions and judgment of Hon'ble Supreme Court, I do not find any good ground in this appeal warranting interference with the

impugned award.

14. The appeal is accordingly dismissed. However, the appellant/claimant would be at liberty to avail other remedy available to him under the law if any for the purpose of seeking compensation in the facts of case.