

**Present : Soumen Sarkar (WB00889)
Judge, MACC Tribunal,
ADJ, 3rd Court, Purulia.**

**MAC Case No.90 of 2016
MAC Case No. 95 of 2016 (CIS)**

**Order No.55
Dt. 20-01-2025**

Claimant has filed hazira and also filed photocopies of some documents.

Proforma OP no.3 has filed hazira through his Ld. Advocate.

Op no.1 has also filed hazira.

The proforma OPs have filed haziras through their Ld. Advocate.

The OP no.2/Insurance Co. has appeared through his Ld. Advocate namely Sri Arup Kumar Chatterjee and filed two petitions viz vacating the order of ex-parte hearing and the other petition under Section 170 of the M.V. Act. The OP no.2 has filed written statement supported by verification.

Ld. Advocates of both sides are present.

Perused the petitions filed by the OP no.2/Insurance Co.

Ld. Advocate appearing for the OP no.2/Insurance Co. submitted that in this case the OP no.2/Insurance Co. has not submitted the written statement earlier due to non-availability of necessary documents for preparing the written statement and for which OP no.2/Insurance Co failed to submit the same in due time and on the last few occasions OP no.2/Insurance Co. only filed adjournment petition. Thus, the Ld. Advocate for the OP no.2/Insurance Co prayed for another opportunity to contest this case.

Ld. Advocate for the claimant raised no objection.

After consideration of the submissions of both the sides and having gone through the previous orders of this case it is deciphered that though the OP no.2/Insurance Co has submitted W/S in this case but on several occasions the OP no.2/Insurance Co. only filed Lawyer's hazira and

Contd.....

MAC Case No.90 of 2016
MAC Case No. 95 of 2016 (CIS)

Contd.....

Order No.55

Dt. 20-01-2025

on the last occasion the adjournment petition fo the OP no.2/Insurance Co. was rejected by this Tribunal. But it is imperative to note here that today the OP no.2/Insurance Co. has filed its written statement.

Therefore, in view of the above circumstances, keeping in view that the OP no.2/Insurance Co. intends to contest the case henceforth, I am of the view that the OP no.2/Insurance Co should be given another opportunity to contest the matter.

Hence, the petition for vacating the order of ex-parte hearing filed by the OP no.2/Insurance Co on this day is hereby allowed on contest but without cost.

Now Ld. Advocate for the OP no.2/Insurance Company has moved another petition under Section 170 of the MV Act praying for permission to avail the defense of the owner of the vehicle.

Heard. Considered.

It is imperative to note here that though the OP no.1/owner of the vehicle is contesting the matter, there is no legal embargo to allow the Insurance Co. to avail itself of the defense available to the owner of the vehicle.

Hence, the prayer of the petition under Section 170 of the MV Act filed by OP no.2/Insurance Company is allowed.

Case is adjourned today.

Fixing **27-02-2025** for framing of additional issues.

(Dictated)

Judge, MAC Tribunal

(Soumen Sarkar)
Judge, M.A.C.Tribunal,
3rd Court, Purulia.