

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Miscellaneous Appeal (C) No.470 of 2020

United India Insurance Company Limited, Anupma Chowk, Jagdalpur, District Bastar, Chhattisgarh (Insurance Company).

---- Appellant**Versus**

1. Smt. Samwati Tamo, S/o Late Shankar Tamo, Aged About 29 Years, R/o Village And Post Belnar Kunjampara, Tahsil Bhairamgarh, District Beejapur, Chhattisgarh (Claimant).
2. Parmesh, S/o Late Shankar Tamo, Aged About 6 Years, Respondent No.2 Minor, Through Natural Guardian His Mother Smt. Samwati Tamo, W/o Late Shankar Tamo, R/o Village And Post Belnar Kunjampara, Tahsil Bhairamgarh, District Beejapur, Chhattisgarh (Claimant).
3. Santosh Yadav, S/o Sakaram Yadav, Aged About 30 Years, R/o Ward No.10, Shivajee Ward, Dewanganpara, Bhairamgarh, Thana Bhairamgarh, District Beejapur, Chhattisgarh (Vehicle Driver).
4. Jairam Gupta, S/o Shri Ram Lakhan Gupta, R/o Geedam, Tahsil And Thana Geedam, District South Bastar, Dantewada, Chhattisgarh (Vehicle Owner).

---- Respondents

02.03.2020	Mr. Sudhir Agrawal, counsel for the Appellant. Heard on admission. Admit. Issue notice to the Respondents on payment of P. F. as per Rules. Heard on I.A. No.1/2020, an application for grant of stay. Learned counsel for the Appellant submits that the vehicle in question, a private jeep, was insured under the Act only Policy, however, the deceased was travelling in the alleged vehicle without any authority, therefore, no liability could be fastened upon the insurance company.

However, without considering the said policy in its proper manner, the Tribunal has erred in fastening the liability upon the insurance company.

Let notice be issued on this application also, as above.

Meanwhile, purely as an interim measures, it is directed that the effect and operation of the award impugned dated 15.11.2019 passed by the 2nd Additional Motor Accident Claims Tribunal, Dantewada, District South Bastar, Dantewada (C.G.) in Claim Case No.54/2017, shall remain stayed till the next date of hearing, in so far as the present appellant is concerned, subject to appellant's depositing a sum of Rs.3,50,000/- (Three Lakhs and Fifty Thousand Only) of the award under appeal before the concerned Executing Court within a period of 45 days from today.

The Respondent Nos.1 to 2/Claimants shall be entitled to withdraw the same, as per the terms and conditions mentioned in the award impugned, without furnishing any kind of security before the concerned Executing Court.

It is made clear that if any of the condition is violated, then this order shall lose its efficacy and the award impugned shall become executable forthwith.

Call for the records of the Court below.

Post this matter after five weeks for consideration on I.A. No.1/2020.

Sd/-
(**Sanjay S. Agrawal**)
Judge