

**HIGH COURT OF CHHATTISGARH, BILASPUR**

Order Sheet

**Miscellaneous Appeal (C) No.478 of 2019**

The Oriental Insurance Company Limited, Division Office 1, Post Box 49, Medical College Road, Kachheri Chowk Raipur, District Raipur, Chhattisgarh (Insurer of offending vehicle Hero Honda No. C.G.-11 C.A. 3698).

---- Appellant

**Versus**

1. Sukawara, Wd/o Late Kishram, Aged About 40 Years, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
2. Ku. Rajni, D/o Late Kishram, Aged About 20 Years, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
3. Rajesh, S/o Late Kishram, Aged About 18 Years, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
4. Minor Ku. Rashmi, D/o Late Kishram, Aged About 17 Years, Minor Through Natural Guardian Mother Sukwara Bai, Wd/o Late Kishram, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
5. Minor Ritesh, S/o Late Kishram, Aged About 16 Years, Minor Through Natural Guardian Mother Sukwara Bai, Wd/o Late Kishram, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
6. Minor Ku. Rani, D/o Late Kishram, Aged About 15 Years, Minor Through Natural Guardian Mother Sukwara Bai, Wd/o Late Kishram, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
7. Bhuri Bai, Wd/o Late Samaru, Aged About 66 Years, Caste Satnami, R/o Village Balpur, Tahsil Bilaigarh, District Baloda Bazar-Bhatapara, Chhattisgarh (Claimant).
8. Shyam Sundar Satnami, S/o Shriram Satnami, R/o Village Parsadih, Tahsil Jaijaipur, District Janjgir-Champa, Chhattisgarh (Owner of offending vehicle Hero Honda No. C.G.-11 C.A. 3698)

---- Respondents



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03/12/2019	<p>Shri Pankaj Agrawal, counsel for the Appellant</p> <p>Heard on I.A. No.1/2019, an application for condonation of delay of 2 days in filing the appeal.</p> <p>On due consideration and for the reasons assigned therein, I am inclined to allow the same. Accordingly, the said application is allowed and the delay of 2 days in filing the appeal is hereby condoned.</p> <p>I.A. No.1/2019, thus, stands disposed of.</p> <p>Heard on admission.</p> <p>Admit.</p> <p>Issue notice to the Respondents on payment of P. F. as per Rules.</p> <p>Also heard on I.A. No.2/2019, an application for grant of stay.</p> <p>Learned counsel for the Appellant submits that in a petition filed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act of 1988), the Claims Tribunal while assessing the annual income of the deceased to the tune of Rs.40,320/- and that by awarding a sum of Rs. 2,50,000/- under conventional heads has committed an illegality in awarding total amount of compensation to the tune of Rs.8,54,800/-. According to him, while passing the award impugned the Claims Tribunal has completely overlooked the 2<sup>nd</sup> Schedule framed under Section 163-A of the Act of 1988.</p> <p>Let notice be issued on this application also, as above.</p> <p>Meanwhile, purely as an interim measure, it is directed that the effect and operation of the impugned award dated 27.10.2018 passed by</p>



the Motor Accident Claims Tribunal, District Baloda Bazar (C.G.) 2026 Claim No. 14328  
Case No.91/2017, shall remain stayed till the next date of hearing,  
subject to appellant's depositing a sum of Rs.5,00,000/- (Five Lakhs  
Only) of the award under appeal before the concerned Executing Court  
within a period of 45 days from today.

The Respondent Nos.1 to 7/Claimant 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.2/2019.

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