

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

MAC No. 335 of 2020

- United Insurance Company Limited By Branch Manager, Branch Office, Bramha Road, Near Kumkum Hotel, Ambikapur, Post Ambikapur, District Sargujha Chhattisgarh Pin No. 497001 Through Authorized Signatory, Manager T.P. Hub United India Insurance Company Limited, T.P Hub/divisional Office, Lic Building, Magharpara Chowk, Bilaspur Chhattisgarh. **---- Appellant**

Versus

1. Vijay Gupta S/o Pyarelal Gupta Aged About 35 Years R/o Village Salka, P.S. Bhatgaon. Bheyathan, District Surajpur Chhattisgarh.
2. Sharmila Gupta W/o Vijay Gupta Aged About 30 Years R/o Village Salka, P.S. Bhatgaon, Bheyathan, District Surajpur Chhattisgarh.
3. Amit Kumar Gupta S/o Krishna Gupta Aged About 30 Years R/o Village And Post Salka (Adhina), P.S. Bhatgaon, District Surgajpur Chhattisgarh.
4. Krishna Prasad Gupta S/o Late Bhukhal Saav Aged About 58 Years R/o Village And Post Salka P.S. Bhatgaon, District Surgajpur Chhattisgarh.

---- Respondents

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12.02.2020	Shri B.N. Nande, counsel for the Appellant. Heard on I.A. No. 1/2020, an application for condonation of delay of 14 days' in filing this appeal. On due consideration and for the reasons assigned therein, which is duly supported by an affidavit, I am inclined to allow the same. The application is allowed and delay is accordingly condoned. I.A. No. 1/2020 stands disposed of. Also heard on admission. Admit. Issue notice to the Respondents on payment of P.F., as per rules. Heard on I.A. No. 2/2020, an application for grant of stay. Learned counsel for the Appellant submits that the policy in question was an 'Act only Policy' and the deceased (Naman Gupta and Sonu Gupta), who were the occupants of the vehicle in question, cannot be held to be a third party, yet, the Tribunal has treated them as a third party and thereby erred in awarding huge amount

of compensation payable to the Claimants. According to him, the risk of each deceased person has been covered only to the extent of Rs. 1,00,000/- (Rupees One Lakhs Only) under the said policy, however, without considering all these material facts in its proper manner, the Tribunal has erred in passing the award under appeal, which is liable to be stayed pending decision of this appeal.

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

Meanwhile, purely as an interim measure, it is directed that the effect and operation of the award impugned dated 17.10.2019 passed by Second Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur in Claim Case No. 123/2018 shall remain stayed till the next date of hearing subject to Appellant's depositing a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) of the award under appeal before the concerned Executing Court within a period of 45 days from today.

The Respondents No. 1 and 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 said Court.

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

Call for records of the concerned Tribunal.

Post this matter after 5 weeks for consideration on I.A. No. 02/2020.

Sd/-
(Sanjay S. Agrawal)
JUDGE