

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Miscellaneous Appeal (C) No.330 of 2020

United India Insurance Company Limited, By Branch Manager, Branch Office, Bramha Road, Near Kumkum Hotel, Ambikapur, Post Ambikapur, District Sargujha (C.G.) 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. (Non-Applicant No. 3).

---- Appellant

Versus

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

---- Respondents

11.02.2020	<p>Shri B. N. Nande, counsel for the Appellant.</p> <p>Heard on I.A. No.1/2020, an application for condonation of delay of 14 days in filing the appeal.</p> <p>On due consideration of the reasons assigned in the said application, which is duly supported by an affidavit, I am inclined to allow the same. Accordingly, the said application is allowed and the delay of 14 days in filing the appeal is hereby condoned.</p> <p>I.A. No.1/2020, thus, stands disposed of.</p> <p>Heard on admission.</p>

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 claimants, 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 them. According to him, the risk of each deceased person has been covered only to the extent of Rs.1,00,000/- (One Lakh) under the 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, as above.

Meanwhile, purely as an interim measures, it is directed that the effect and operation of the award impugned dated 17.10.2019 passed by the 2nd Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G.) in Claim Case No.122/2018, shall remain stayed till the next date of hearing, subject to appellant's depositing 30% of the award under appeal before the concerned Executing Court within a period of 45 days from today.

The Respondent No.1 to 2/Claimants shall be entitled to withdraw the same, as per the terms and conditions mentioned in the award impugned.

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.2/2020.

Sd/-
(Sanjay S. Agrawal)
Judge