



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Miscellaneous Appeal (C) No.328 of 2020

Branch Manager, H.D.F.C. Ergo General Insurance Company Ltd., Third Floor, Chawla Complex, Devendra Nagar Road, Sai Nagar, Raipur, Tahsil & District Raipur, Chhattisgarh, Pin No. 492001 (Insurer of Vehicle No. UP-95-T-0020).

---- Appellant

Versus

1. Ashok Yadav, S/o Meghauram, Aged About 39 Years, Profession Labor, R/o Village Agarikala, Thana Pipariya, Tehsil Kawardha, District Kabirdham, Chhattisgarh (Claimant).
2. Smt. Nirmala Yadav, W/o Ashok Yadav, Aged About 36 Years, Profession Housewife, R/o Village Agarikala, Thana Pipariya, Tehsil Kawardha, District Kabirdham, Chhattisgarh (Claimant).
3. Rajkumari Yadav, D/o Ashok Yadav, Aged About 19 Years, Profession Study, R/o Village Agarikala, Thana Pipariya, Tehsil Kawardha, District Kabirdham, Chhattisgarh (Claimant).
4. Maniram Yadav, D/o Ashok Yadav, Aged About 13 Years, Profession Study, Minor representing through Guardian Father Meghauram, S/o Sakhan Yadav, R/o Village Agarikala, Thana Pipariya, Tehsil Kawardha, District Kabirdham, Chhattisgarh (Claimant).
5. Meghauram Yadav, S/o Sakhan Yadav, Aged About 65 Years, R/o Village Agarikala, Thana Pipariya, Tehsil Kawardha, District Kabirdham, Chhattisgarh (Claimant).
6. Putri Bai, W/o Meghauram Yadav, Aged About 60 Years, R/o Village Agarikala, Thana Pipariya, Tehsil Kawardha, District Kabirdham, Chhattisgarh (Claimant).
7. Ramlal Yadav, S/o Baburam Yadav, Aged About 33 Years, Profession Driver, R/o Village Pratappur, P.O. Bilha, Thana Rajnagar, Tehsil Chhatarpur, District Chhatarpur, Madhya Pradesh (Driver of Vehicle No. UP-95-T-0020).
8. Santosh Kumar Rawat. S/o Babulal Rawat. Aged About 38 Years. Profession Vehicle Owner, R/o Ward No.06, Rawat Mohalla. Talab Gali, Mivari, Thana Gadhi, Malahara, District Chhatarpur, Madhya Pradesh (Owner of Vehicle No. U.-95-T-0020)

---- Respondents

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11.02.2020	Shri Rohitashva Singh, counsel for the Appellant.
	Heard on I.A. No.2/2020, an application for exemption from filing



the certified copy of the order passed under Section 170 of the Motor Vehicles Act, 1988.

On due consideration and for the reasons assigned therein, I am inclined to allow the same and the Appellant is exempted from filing the certified copy of the order passed under the said provision.

I.A. No.2/2020, thus, stands disposed of.

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 Deceased/Dhaniram Yadav was a bachelor, yet, the Tribunal while assessing the amount of compensation has committed an illegality in deducting one-fourth instead of half of his income while ignoring the principles laid down in the matter **Sarla Verma (SMT) And Others Versus Delhi Transport Corporation and Another** reported in (2009) 6 SCC 121. He submits further that the amount of compensation as awarded by the Claims Tribunal is extremely on higher side and prays for staying the effect and operation of the award impugned 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 16.12.2019 passed by the Additional Motor Accident Claims Tribunal, Kabirdham (C.G.) in Claim Case No.39/2018, shall remain stayed till the next date of hearing,



subject to appellant's depositing 50% of the award under appeal before the concerned Executing Court within a period of 45 days from today.

The Respondent No.1 to 6/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 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