



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

M.A.(C) No. 639 of 2020

- IFFCO Tokiyo General Insurance Company Limited 205, Second Floor, M.M. Silver Plaza, In Front Of Udyog Bhawan, Near Mining Office, Ring Road No. 01, Raipur, District Raipur, Chhattisgarh. **---- Appellant**

Versus

1. Gangeshwar S/o Late Shri Sudama Prasad Kushwaha Aged About 27 Years R/o Village Girjapur, Police Station Patna, Tashil Baikunthpur, District Korla, Chhattisgarh.
2. Umeshwar Sharan S/o Late Shri Sudama Prasad Kushwaha Aged About 20 Years R/o Village Girjapur, Police Station Patna, Tashil Baikunthpur, District Korla, Chhattisgarh.
3. Sudha Kumari D/o Late Shri Sudama Prasad Kushwaha Aged About 22 Years R/o Village Girjapur, Police Station Patna, Tashil Baikunthpur, District Korla, Chhattisgarh.
4. Anita Kushwaha D/o Late Shri Sudama Prasad Kushwaha W/o Ramakant Kushwaha, Aged About 35 Years, R/o Village Sirmi, Police Station And Tahsil Bhaiyyathan, District Surajpur Chhattisgarh,
5. Smt. Rita Kushwaha D/o Late Shri Sudama Prasad Kushwaha Aged About 32 Years W/o Sushil Kushwaha, R/o Village Kotaya Salka, Police Station And Tahsil Bhaiyyathan, District Surajpur, Chhattisgarh,
6. Smt. Meena Kushwaha D/o Late Shri Sudama Prasad Kushwaha Aged About 30 Years W/o Kamla Prasad, R/o Village Barbaspur, Police Station And Tahsil Ramanuj Nagar, District Surajpur, Chhattisgarh, Claimants.
7. Rashid Ahmad S/o Nisar Ahmad Aged About 35 Years R/o Village And Post Patna, Tahsil Baikunthpur, District Korla, Chhattisgarh, Owner.
8. Rajesh Kumar Sahu S/o Hiraram Sahu Aged About 20 Years R/o Village And Post Mahora, Police Station Patna, Tahsil Baikunthpur, District Korla Chhattisgarh, Driver.

---- Respondents

5	
27.09.2021	Shri P. R. Patankar, counsel for the Appellant. Shri Anil Gulati, counsel for Respondents No.1 to 6/Claimants. None for Respondents No.7 & 8, though served.



Heard on I.A. No.01/2020, an application for condonation of delay of 123 days in filing this appeal.

No reply has been filed with regard to the said application.

On due consideration and for the reasons assigned therein, which is duly supported by an affidavit, I am inclined to allow the same.

The said application is allowed and delay is, accordingly, condoned.

I.A. No.01/2020, thus, stands disposed of.

Also heard on admission.

Admit.

Issue notice to Respondents No.7 & 8 only on merits on payment of P.F., as per rules.

Learned counsel for the Appellant submits that the copy of memo of appeal has already been supplied to counsel for Respondents No.1 to 6/Claimants. The said fact is taken on record.

Also heard on I.A. No.02/2020, an application for grant of stay.

Learned counsel for the Appellant, while inviting attention to paragraph 15 of the award impugned, submits that despite holding that the driver of the offending vehicle was not holding the valid and effective driving licence, yet the Tribunal has fastened the liability upon the Appellant-Insurance Company. He, therefore, prays for staying the effect and operation of the award impugned, pending decision of this appeal.

No reply has been filed with regard to the said application.

On due consideration, the said application is allowed and it is directed that the effect and operation of the impugned award dated 06.08.2019 passed by the Motor Accident Claims Tribunal, Koriya (Baikunthpur) (C.G.) in Claim Case No.13/2016 shall remain stayed until further orders, subject to Appellant's



depositing 75% of the award under appeal before the concerned executing Court within a period of two months from today.

The Claimants/Respondents No. 1 to 6 shall be entitled to withdraw the same as per the direction of the 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.

I.A. No.02/2020, thus, stands disposed of.

Call for record of the concerned Tribunal and post this matter after five weeks for further orders.

Sd/-

(Sanjay S. Agrawal)
Judge