2026:CGHC:12823

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 309 of 2026

Branch Manager National Insurance Company Ltd. Branch Office Above Bandhan Bank Koshabadi Main Road, Korba Tahsil And District Korba (C.G.), Through T.P. Hub Incharge, Regional Office, 2nd Floor, Mobin Mahal, G.E. Raod, Raipur District Raipur (C.G.) (Insurance Co.)

... Petitioner

versus

1 - Smt. Anita Rathore W/o Padambhushan Pratap Singh Rathore Aged About 42 Years R/o Revenue Colony Digapur Korba Tahsil And District Korba (C.G.) (Claimants)

2 - Padambhushan Pratap Singh Rathore S/o Late Khedu Singh Rathore Aged About 52 Years R/o Revenue Colony Digapur Korba Tahsil And District Korba (C.G.) (Claimants)

3 - Raghav Singh Rathore S/o Late P.P.S. Rathore Minor Represented Through His Natural Guardian And Mother Smt. Anita Rathore W/o Padambhushan Pratap Singh Rathore, Aged About 42 Years, R/o Revenue Colony Digapur Korba Tahsil And District Korba (C.G.) (Claimants)

4 - Devraj Lajhekar S/o Santosh Lajhekar R/o Moti Sagar Para Shitla Mata Chouk Korba Tahsil And District Korba (C.G.) (Driver)

5 - Himanshu Kumar Dewangan S/o Shri Hari Ram Dewangan R/o House No. 230, Near Government School Charpara Kohdiya Tahsil And District Korba (C.G.) (Owner)

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Pravin Kumar Tulsyan, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal

Order on Board

17/03/2026

Heard.

1. The present writ petition has been filed by the petitioner- insurance company, who is the non-applicant No. 3 before the learned First Additional Motor Accident Claims Tribunal, Korba, in Claim Case MACT No. 53 of 2025, whereby the application filed by the petitioner for permission to lead evidence of the non-applicant No. 3 is rejected.

2. Learned counsel for the petitioner would submit that the respondents No. 1 to 3 are prosecuting a claim case before the learned First Additional Motor Accident Claims Tribunal, Korba for grant of compensation on account of death of the daughter of the applicants No. 1 and 2 and sister of applicant No. 3. Though, at the time of filing of the written statement by the non-applicant No. 3, the grounds of issuance of insurance policy of ‘Act Only’ policy could not be pleaded in the written statement. However, due to clerical mistake and by overlooking the relevant facts, they could not mention it in the written statement and during the trial of the claim case at the time when the proposal for compromise was made by the parties, they examined their records and at that time they found that only an ‘Act Only’ policy was issued to the owner of the vehicle and it is not the package policy. Since, at the time when the negotiations for compromise was started,

the petitioner/non-applicant No. 3 already submitted before the trial Court that he does not wish to lead any evidence and the right to lead evidence of the non-applicant No. 3 was closed.

3. Since, the material fact was discovered after examination of the records, they moved their application to lead evidence by the non-applicant No. 3, which is rejected by the trial Court by holding that the written statement in the case has been filed by the non-applicant No. 3 on 27-06-2025 and they themselves have pleaded for closing of their right to lead evidence. Therefore, at the fag end of the trial, the insurance company cannot be permitted to lead evidence and to reopen the case. He would further submit that the non-applicant No. 3/petitioner only wants to get the copy of the insurance policy exhibited in the case and they will not get any further adjournment for the same. Therefore, the impugned order may be set aside and the application to lead evidence by the non-applicant No. 3 may be allowed.

4. I have heard learned counsel for the petitioner and perused the material annexed with the petition.

5. It is not disputed by the learned counsel appearing for the petitioner that on 27-06-2025 the written statement by the non-applicant No. 3 was filed and subsequently they closed their right to lead evidence by saying that they do not want to lead any evidence. However, at the time when the negotiation for compromise was started between the parties, they examined their record and found that with respect to the subject vehicle Ciaz car bearing registration No. CG 12 AL 2600, only an ‘Act Only’ policy was issued, which does not cover the liability of the

non-applicant No. 3 under the circumstances in which the accident occurred. Since the petitioner wants to only get the copy of the policy exhibited, no prejudice appears to be caused to the claimants or other party in the case, as they have every right to cross examine the witness of the insurance company. However, the insurance company can only be restricted for exhibiting the copy of the insurance policy.

6. Fair trial and production of evidence and cross-examination is an integral part of the trial process and the party cannot be deprived without any unreasonable cause. Though the petitioner/non-applicant No.3 pleaded that they do not want to wish to lead any evidence and their right to lead evidence was closed, yet they availed their right to lead evidence before closing of the proceedings as they found some defect in issuance of the insurance policy to the subject vehicle.

7. Considering the entire facts and circumstances of the case, this Court is of the opinion that one opportunity is to be granted to the petitioner/non-applicant No. 3 for leading their evidence which restricted only to get the copy of the insurance policy exhibited. In such eventuality, the other party have a right to cross-examine the witness so appeared for exhibiting the document before the Court.

8. Accordingly, the impugned order dated 25-02-2026 is set aside, the First Additional Motor Accident Claims Tribunal is directed to fix a date for evidence of non-applicant No. 3, who shall produce the copy of the insurance policy and get it exhibited during the evidence. The evidence of non-applicant No. 3 should be restricted only to the extent of exhibiting the insurance policy.

9. In such eventuality, the other party shall be permitted to cross-examine the witness of the insurance company. It is further made clear that no unnecessary adjournments should be taken by the parties concerned.

10. With the aforesaid observation, the present writ petition is **allowed**, subject to payment of cost of Rs. 3000/- payable to the claimants.

Sd/-
(Ravindra Kumar Agrawal)
Judge

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