

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Miscellaneous Appeal (C) No.947 of 2020

United India Insurance Company Limited, By Divisional Manager, Station Road, Paras Complex, Near Gurudwara, Police Station Mohannagar, Durg, Tehsil And District Durg Chhattisgarh. Through Authorized Signatory, Manager T.P. Hub United India Insurance Company Limited, T.P. Hub/ Divisional Office, LIC Building, Magharpara Chowk, Bilaspur, District Bilaspur, Chhattisgarh (Non-Applicant No.3).

---- Appellant**Versus**

1. Smt. Usha Bhatt, Wd/o Late Birendra Kumar Bhatt, Aged About 35 Years, R/o Village Umradah, Post Belmand, Tehsil Balod, District Balod, Chhattisgarh (Claimant).
2. Vijay Bhatt, S/o Late Birendra Kumar Bhatt, Aged About 15 Years, Minor Through Their Mother Respondent No.1 namely Smt. Usha Bhatt, R/o Village Umradah, Post Belmand, Tehsil Balod, District Balod, Chhattisgarh (Claimant).
3. Jay Bhatt, S/o Late Birendra Kumar Bhatt, Aged About 15 Years, Minor Through Their Mother Respondent No.1 namely Smt. Usha Bhatt, R/o Village Umradah, Post Belmand, Tehsil Balod, District Balod, Chhattisgarh (Claimant).
4. Kumari Chanchal, D/o Late Birendra Kumar Bhatt, Aged About 4 Years, Minor Through Their Mother Respondent No.1 namely Smt. Usha Bhatt, R/o Village Umradah, Post Belmand, Tehsil Balod, District Balod, Chhattisgarh (Claimant).
5. Basant Kummar Bhatt, S/o Late Shankarlal Bhatt, Aged About 59 Years, R/o Village Umradah, Post Belmand, Tehsil Balod, District Balod, Chhattisgarh (Claimant).
6. Smt. Belubai, W/o Basant Kumar Bhatt, Aged About 57 Years, R/o Village Umradah, Post Belmand, Tehsil Balod, District Balod, Chhattisgarh (Claimant).
7. Hirendra Kumar Bhatt, S/o Khemdhar Bhatt, Aged About 31 Years, R/o Village Demar, Police Station Arjuni, Tehsil And District Dhamtari, Chhattisgarh (Non-Applicant No.1/Driver).
8. Prakash Bhatt, S/o Naresh Bhatt, R/o Patelpara, Ward No.7, Demar Police Station Arjuni, Tehsil And District Dhamtari, Chhattisgarh (Non-Applicant No.2/Owner).

---- Respondents

19.08.2020	Mr. B. N. Nande, counsel for the Appellant. Mr. Utsav Mahiswar, counsel for Respondent Nos.1, 5 and 6/Claimants on Caveat and received notice in advance on behalf of Respondent Nos.2, 3 & 4. Heard on admission. Admit. Issue notice to the Respondent Nos.7 & 8 on payment of P. F. as per Rules. Heard on I.A. No.1/2020, an application for grant of stay. Mr. B. N. Nande, learned counsel for the Appellant submits that the alleged accident has occurred due to some unknown vehicle, however, without considering the said fact in its proper manner, the Tribunal has erred in holding, while entertaining the Issue No.1, that it was driven rashly and negligently by one Hirendra Kumar Bhatt, the driver of the motorcycle. It is contended further that since the said driver of motorcycle was not responsible for the alleged accident, therefore, the claim as made while impleading him, is apparently not sustainable in the eye of law and was liable to be dismissed. In support, he placed his reliance upon the decision rendered by the Supreme Court in the matter of <u>Lachoo Ram and Others Versus Himachal Road Transport Corporation</u>, reported in 2014 (1) T.A.C. 724 (S.C.). On the other hand, Mr. Utsav Mahiswar, learned counsel for Respondent Nos.1, 5 and 6 has opposed the said contention and submits that after considering the evidence led by the parties, it was held

at paragraph 10 of the award under appeal that the driver of the offending vehicle namely, Hirendra Kumar Bhatt was in fact liable for the alleged accident.

Considering the aforesaid contentions of the parties, I am inclined to allow this application and it is directed that the effect and operation of the award impugned dated 03.02.2020 passed by the 1st Additional Motor Accident Claims Tribunal, Balod, District Balod (C.G.) in Claim Case No.88/2019, shall remain stayed until further orders, subject to appellant's depositing 50% of the award under appeal before the concerned Tribunal/Executing Court within a period of 3 months from today.

The Respondent Nos.1 to 6/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.

I.A. No.1/2020, thus, stands disposed of.

Call for the records of the Court below.

Post this matter after five weeks for further orders.

Sd/-
(**Sanjay S. Agrawal**)
Judge