

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Miscellaneous Appeal (C) No.1013 of 2019

Adarsh Joshi, S/o Anand Joshi, Aged About 21 Years, Occupation Transporting, R/o Gol Bazar, Ward No.4 Police Station Khamhariya, Post, Tahsil Khamhariya, District Bemetara Chhattisgarh (Possession holder of Vehicle No. CG 04 JC 5771)

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1. Smt. Uma Bai Kaushik, W/o Late Bhupesh Kaushik, Aged About 20 Years, Occupation Housewife, Caste Lodhi, Kaushik, R/o Village Gochhiya, Post Gochhiya, Tahsil Sahaspur Lohara, Police Station & District Kawardha (Kabirdham) Chhattisgarh (Claimant).
2. Yuram Kaushik, S/o Late Kriparam Kaushik, Aged About 55 Years, Caste Lodhi, Kaushik, R/o Village Gochhiya, Post Gochhiya, Tahsil Sahaspur Lohara, Police Station & District Kawardha (Kabirdham) Chhattisgarh (Claimant).
3. Smt. Sundri Bai Kaushik, W/o Yuram Kaushik, Aged About 50 Years, Caste Lodhi, Kaushik, R/o Village Gochhiya, Post Gochhiya, Tahsil Sahaspur Lohara, Police Station & District Kawardha (Kabirdham) Chhattisgarh (Claimant).
4. Smt. Meena Bai Kaushik, D/o Yuram Kaushik, Aged About 72 Years, Caste Lodhi, Kaushik, R/o Village Gochhiya, Post Gochhiya, Tahsil Sahaspur Lohara, Police Station & District Kawardha (Kabirdham) Chhattisgarh (Claimant).
5. Smt. Savitri Bai Kaushik, W/o Late Kriparam Kaushik, Aged About 72 Years, Caste Lodhi, Kaushik, R/o Village Gochhiya, Post Gochhiya, Tahsil Sahaspur Lohara, Police Station & District Kawardha (Kabirdham) Chhattisgarh (Claimant).
6. Sunil Kumar Sahu, S/o Chatur Ram Sahu, Aged About 30 Years, Occupation Driver, R/o Virendra Nagar, Police Station & Tahsil Sahaspur Lohara, District Kawardha (Kabirdham) Chhattisgarh (Driver of Truck Vehicle No. CG 04 JC 5771 at the time of Accident) Other Address Adarsh Joshi, R/o Gol Bazaar, Ward No.4, Police Station Khamhariya, Post, Tahsil Khamhariya, District Bemetara, Chhattisgarh.
7. Indrish Khan, S/o Abdul Khan, Occupation Transporting (Registered Owner of Truck No. CG 04 JC 5771) R/o Simga, Musalman Para, Ward No.11, Simga Police Station & Tahsil Simga, District Baloda Bazaar, Chhattisgarh.
8. Branch Manager United India Insurance Company Limited, Power House, Tara Complex, GE Road, Beside Bus Stand, Bhilai, Tahsil & District Durg, Chhattisgarh (Insurer of

offending Vehicle Truck No. CG 04 JC 5771).

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2	
09.01.2020	<p>Shri Rajkumari Pali, counsel for the Appellant.</p> <p>Shri Shantanu Parmanand, counsel for Respondent Nos.1 to 5/Claimants.</p> <p>None for Respondent No.6, though served.</p> <p>Respondent No.7 is reported to be unserved.</p> <p>Shri Sudhir Agrawal, counsel for Respondent No.8.</p> <p>Shri Parmanand prays for and is granted time to move an appropriate application for condonation of delay of 119 days in filing the Cross Appeal.</p> <p>At this stage, Shri Pali learned counsel for the Appellant submits that Respondent No.8/Insurance Company has already initiated the execution proceedings and the matter has been listed before the concerned Executing Court on 22.01.2020. Therefore, the application (I.A. No.1/2019) filed by him for staying the effect and operation of the award impugned may be heard.</p> <p>Considering the aforesaid contention, I am inclined to hear the said application for grant of stay (I.A. No.1/2019).</p> <p>Learned counsel for the Appellant, submits that despite holding that Non-Applicant No.2 namely, Indrishi Khan, was a registered owner of the vehicle in question, yet, the Claims Tribunal has fastened the liability upon the Appellant/Adarsh Joshi. He, therefore, prays for staying the effect and operation of the award impugned pending decision of this</p>

appeal.

On the other hand, Shri Agrawal counsel for Respondent No.8, while supporting the award impugned submits that the vehicle in question was being used without any permit, therefore, the Claims Tribunal has not committed any illegality in fastening the liability upon the appellant, as the appellant was in exclusive possession over the alleged vehicle at that particular time.

Considering the aforesaid contentions of the parties, I am inclined to allow this application. Accordingly, the said application is allowed and it is directed that the execution proceedings initiated by the Respondent No.8 in pursuance to the award impugned dated 24.04.2019 passed by the Motor Accident Claims Tribunal, Bemetara (C.G.) in Claim Case No.19/2018 shall remain stayed until further orders.

I.A. No.1/2019, thus, stands disposed of.

Let fresh notice be issued to Respondent No.7 only on merit, on payment of P. F. as per Rules.

Post this matter after five weeks for further.

Sd/-
(Sanjay S. Agrawal)
Judge