

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

MAC No. 447 of 2021

- United India Insurance Company Limited Through Branch Manager, Office Plot No. 183, 2nd Floor, Behind Pump, T.P. Nagar Korba, Tahsil And District Korba Chhattisgarh.....(Insurer) **---- Appellant**

Versus

1. Smt. Rajbala Devi Wd/o Late Ramkumar, Aged About 36 Years R/o D.S. 58, Garun Nagar, Deepaka, Police Station Deepka, District Korba (Chhattisgarh).....(Claimant).
2. Ashish Kumar, S/o Late Ramkumar, Aged About 21 Years R/o D.S. 58, Garun Nagar, Deepaka, Police Station Deepka, District Korba (Chhattisgarh).....(Claimant).
3. Ankit Kumar, S/o Late Ramkumar, Aged About 19 Years R/o D.S. 58, Garun Nagar, Deepaka, Police Station Deepka, District Korba (Chhattisgarh).....(Claimant).
4. Tejendar Singh S/o Late Deva Singh, Aged About 37 Years R/o 22 Number Dump, Gevra Mess, Police Station Deepaka, Tahsil Katghora, District Korba (Chhattisgarh).....(Driver Of Vehicle).....(Non Applicant No. 1).
5. M/s Liyo Coal Movers Private Limited, Through Branch Manager, Head Office, Budhar, Post Budhar, District Anuppur (M.P.), Camp Office Deepka Camp, Post Chainpur, Via Hardibazar, Tahsil Katghora, District Korba (Chhattisgarh).....(Driver Of Owner). **---Respondents**

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12.08.2021	Shri Pankaj Agrawal, counsel for the Appellant. Heard on admission. Admit. Issue notice to the Respondents on payment of P.F., as per rules. Also heard on I.A. No.01/2021, an application for grant of stay. Learned counsel for the Appellant submits that the vehicle in question was being used without any permit and fitness certificate and driver of it was also not holding the valid and effective driving licence, yet the Tribunal even without considering the same has fastened the liability upon the Appellant/Insurance Company by holding that it was not being used in violation of the policy. He, therefore, prays for staying the effect and operation of the award impugned dated 17.03.2021 passed in Claim Case No.17/2017,

pending decision of this appeal.

Let notice be issued on this application also to the Respondents, as above.

Meanwhile, purely as an interim measure, it is directed that the effect and operation of the award impugned dated 17.03.2021 passed by the Second Additional Motor Accident Claims Tribunal, Katghora, District-Korba (C.G.), in Claim Case No.17/2017, shall remain stayed, till the next date of hearing, subject to Appellant's depositing 75% of the award under appeal before the concerned Executing Court/Tribunal within a period of 2 months from today.

The Respondents No.1 to 3/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 conditions is violated, then this order shall lose its efficacy and the award impugned shall become executable forthwith.

Call for record of the concerned Tribunal.

Post this matter after 5 weeks for consideration on I.A. No.01/2021.

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