

HIGH COURT OF CHHATTISGARH, BILASPUR
Order Sheet

MAC No. 2118 of 2019

H.D.F.C. Ergo General Insurance Company Ltd. Through Officer In Charge,
H.D.F.C. Ergo General Insurance Company Ltd., Chawla Complex,
Devendra Nagar, Raipur Chhattisgarh. **---- Appellant**

Versus

1. Smt. Afsana W/o Late Amjad Khan Aged About 35 Years R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh.
2. Kumari Alfiya D/o Late Amjad Khan Aged About 8 Years Respondent No. 02 Is Presenting Through Mother Resp. No. 1 Smt. Afsana, R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh.
3. Kumari Aliya D/o Late Amjad Khan Aged About 10 Years Respondent No. 03 Is Presenting Through Mother Resp. No. 1 Smt. Afsana, R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh.
4. Habib Khan S/o Salim Khan Aged About 60 Years R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh.
5. Smt. Haimda Begum W/o Habib Khan Aged About 55 Years R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh.
6. Smt. Asha Ojha W/) Suresh Kumar Ojha R/o Mahavir Chowk, Taragiv (Taraganj) Lashkar, Gwalior M. P. **--- Respondents**

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04.12.2019	Shri Rohitashva singh, counsel for the Appellant. Heard on I.A. No. 2/2019, an application for exemption from filing the certified copy of order passed under Section 170 of Motor Vehicles Act, 1988. On due consideration and the reasons assigned therein, I am inclined to allow the same.

The application is allowed and appellant is hereby exempted from filing the certified copy of order passed under the said provision.

I.A. No. 2/2019 stands disposed of.

Also heard on admission.

Admit.

Issue notice to the Respondents on payment of P.F., as per rules.

Also heard on I.A. No. 1/2019, an application for grant of stay.

Learned counsel for the Appellant submits that while fastening the liability upon the Appellant-Insurance company, the Claims Tribunal has committed an illegality in observing at paragraph 24 that since the petition has been made under Section 163 A of the motor Vehicles Act, 1988, therefore, breach of condition of the Insurance Policy is not required to be examined, which is, however unknown to the law. He, therefore, prays for staying the effect and operation of the award impugned 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 11.09.2019 passed by the Chief Motor Accident Claims Tribunal, Raipur in Claims Case No. 565/2017 shall remain stayed till the next date of hearing subject to Appellant's depositing a sum of Rs. 4,00,000/- (Rupees Four Lakhs Only) of the award under appeal before the concerned Executing Court within a period of 45 days from today.

The Respondents No. 1 to 5/Claimants shall be entitled to withdraw the same, as per the terms and conditions mentioned in the award impugned without furnishing any kind of security before the said 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.

Call for records of the concerned Tribunal.

Post this matter after 5 weeks for consideration on I.A. No. 1/2019 .

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

vivek