



HIGH COURT OF CHHATTISGARH, BILASPUR
Order Sheet

MAC No. 389 of 2021

- The New India Assurance Company Limited Through Its Divisional Manager, Divisional Office-Shubham Complex, Kewadabadi, Near Bus Stand, Raigarh, Tahsil And District- Raigarh, Chhattisgarh. **---- Appellant**

Versus

1. Rajendra Patel S/o Late Gajpati Patel aged about 24 years, R/o H. No. 131/1 Pakki Raod Patrapali East Kotraliya, P.S.- Chakradhar Nagar, Tahsil And District- Raigarh, Chhattisgarh.
2. Virendra Patel S/o Late Gajpati Patel Aged About 20 Years R/o H. No. 131/1 Pakki Raod Patrapali East Kotraliya, P.S.- Chakradhar Nagar, Tahsil And District- Raigarh, Chhattisgarh.
3. Paras Patel S/o Late Gajpati Patel Aged About 18 Years R/o H. No. 131/1 Pakki Raod Patrapali East Kotraliya, P.S.- Chakradhar Nagar, Tahsil And District- Raigarh, Chhattisgarh.
4. Madhuri Nayak W/o Kheersagar Nayak Aged About 26 Years R/o Village And P.O. Murra, P.S. And Tahsil- Kharsia, District- Raigarh, Chhattisgarh.
5. M.S. Gagan Raodlines Dhimrapur Chowk, P.S. City Kotwali, Tahsil And District- Raigarh, Chhattisgarh.
6. Laxmi Narayan S/o Arjun Das Aged About 45 Years Occupation- Driver, R/o 141, Jute Mill Colony, Ward No.-32, District- Raigarh, Chhattisgarh (Driver).

---Respondents

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26.07.2021	Shri Dashrath Gupta, 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 fitness certificate of the vehicle in question has come in existence with effect from 31.05.2018, however it was not in existence when the alleged accident occurred on 15.05.2018 and despite of recording the finding in this regard, the Tribunal has erred in fastening the liability upon the Insurance Company. In support, he placed his reliance upon the decision rendered



in the matter of **Pareed Pillai Vs. Oriental Insurance Co. LTD. Ernakulam** reported in **AIR 2019 Kerala 9 Full Bench**. He, therefore, prays for staying the effect and operation of the award impugned dated 05.03.2021, passed in Claim Case No.32/2019, 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 05.03.2021, passed by the VIIth Additional Motor Accident Claims Tribunal, District Raigarh(C.G.), in Claim Case No.32/2019, 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 4/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