



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

M.A.(C) No. 796 of 2021

- Divisional Manager, Oriental Insurance Company Limited, M.B. Trade Centre, Balak Chowk, Dhamtari, Post, PS, Tahsil And District Dhamtari, Chhattisgarh.

---- Appellant

Versus

1. Smt. Radha Bai W/o Late Shri Suresh Sahu Aged About 47 Years Residing At Post And Ps Akladongri, Tehsil And District Dhamtari, Chhattisgarh.
2. Sanjay Kumar Sahu S/o Late Shri Suresh Sahu Aged About 25 Years Residing At Post And Ps Akladongri, Tehsil And District Dhamtari, Chhattisgarh.
3. Savita Sahu D/o Late Shri Suresh Sahu Aged About 27 Years Residing At Post And Ps Akladongri, Tehsil And District Dhamtari, Chhattisgarh.
4. Kanshiram S/o Sadhuram R/o Village Bhirauda, Ps And Tehsil Charama, District Kanker, Chhattisgarh.
5. Rajkumar S/o Amrit Patel Aged About 52 Years R/o Sadar Baza, Charama, Ps And Tehsil Charama, District Kanker, Chhattisgarh.

---- Respondents

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16.12.2021	Shri Ghanshyam Patel, 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 (Pickup Van) was insured as a transport vehicle and at the relevant time, it was being used without any fitness certificate, as it was issued only on 25.07.2019 whereas the incident took place on 17.09.2018. Yet, the Tribunal has fastened the



liability upon the insurance company and, in support, has placed his reliance upon the decision rendered in the matter of **Ramankutty vs. Pareed Pillai** reported in **2018 SCC Online Ker 3542** and praying for staying the effect and operation of the impugned award, 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 impugned award dated 30.06.2021 passed by the Additional Motor Accident Claims Tribunal (F.T.C.), Dhamtari, District Dhamtari (C.G.) in Claim Case No.01/2019 shall remain stayed till the next date of hearing, subject to Appellant's depositing 50% of the award under appeal before the concerned executing Court within a period of 45 days from today.

The Claimants/Respondents No. 1 to 3 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.

Call for record of the concerned Tribunal and post this matter after five weeks for consideration on I.A. No.01/2021.

Sd/-

(Sanjay S. Agrawal)
Judge