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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 508 of 2015**

1. Kaushilya Bai Wd/o Nakul Ram Sahu Aged About 48 Years
2. Jawantin D/o Late Nakul Ram Sahu Aged About 17 Years
3. Ku. Ritu D/o Late Nakul Ram Sahu Aged About 15 Years
4. Lalchand S/o Nakul Ram Sahu Aged About 8 Years
5. Urmila Wd/o Late Bisali Ram Sahu Aged About 65 Years. No. 2 to 4 are minor through natural guardian mother Smt. Kaushilya Bai, wd/o late Nakul Ram Sahu. All are R/o Village Bhirai, Post Palari, Tahsil Gurur, District Balod Chhattisgarh.

**---- Petitioners****Versus**

1. Ramesh Kumar Mankuhra S/o Ramnarayan Caste Kandra, R/o Village Bhirai Post Palari, Tahsil Gurur, District Balod Chhattisgarh
2. Smt. Devmati Thakur W/o Darbari Ram Thakur Aged About 34 Years R/o Village Kharra, Post Teligadra, Police Station Patan, District Durg Chhattisgarh
3. Insurance Company Branch Manager, Tata, A.I.G. General Insurance Company Limited Razamarket Ratanabandha Chowk 1st Floor Of Gurunanak Electronics, Dhamtari Tahsil And District Dhamtari Chhattisgarh

**---- Respondents**


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| For Petitioners            | : | Shri P.K. Patel, Advocate.        |
| For Respondents No.1 and 2 | : | Shri Varunendra Mishra, Advocate. |
| For Respondent No.3        | : | None though represented.          |

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**Order On Board****29/10/2015**

1. Heard on admission.
2. Admit.
3. With the consent of both the parties, the matter is heard finally.
4. In this petition filed under Article 227 of the Constitution of India, the Petitioners have challenged the legality and propriety of the order dated 26.6.2015 passed by the Chief Motor Accidents Claims Tribunal, Dhamtari, whereby and whereunder the Tribunal has closed the opportunity for

adducing the evidence on behalf of the Petitioners/ Applicants by rejecting the application made in this behalf under Order 17 Rule 1 of the Code of Civil Procedure, 1908 (for short 'the CPC') for grant of time to adduce their evidence as Petitioner No.1 was ailing.

5. Learned counsel for the Petitioners submits that Petitioner No.1, on account of ailment, was not in a position to remain present before the Tribunal on 26.6.2015 to adduce his evidence. He submits that the matter relates to compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988 (for short 'Act of 1988') and the same is a social legislation. The husband of Petitioner No.1 met with an accident and died. The Petitioners/ Applicants have filed Claim Case No.148 of 2014 before the Tribunal for compensation. They are poor persons and they may be given reasonable opportunity to adduce their evidence to prove their claim. It was lastly submitted that on the basis of the grounds taken in the petition, the Petitioners may be permitted to adduce evidence to prove their case for compensation before the Tribunal so that they may be adequately compensated by putting their case before the Tribunal.

6. On behalf of Respondents No.1 and 2 no objection was raised against the above prayer and no one has appeared on behalf of Respondent No.3/ Insurance Company.

7. For the purposes of appreciation of the arguments advanced on behalf of the parties, I have perused the material available on record.

8. On a close scrutiny of the material available on record, it appears that on 26.6.2015 the matter was listed for evidence of both the parties. On behalf of the Applicants/ Petitioners, an application under Order 17 Rule 1 of the CPC had been filed stating the reason that as Applicant No.1 is ailing,

hence she is unable to appear to adduce her evidence on the said date, which is the first date fixed for evidence of the parties. Learned Tribunal rejected the application as there was no medical certificate produced in support of the application for adjournment.

9. As 26.6.2015 was the first date fixed for evidence of both the parties and also looking to the other facts as well as the compensation law is a social legislation, reasonable opportunity should be given to prove their case for compensation. The Applicants are the legal heirs of Nakul Ram Sahu who expired in a motor accident and the Applicants have approached the Tribunal for compensation. They are rustic villagers. From perusal of the order sheet, it appears that Applicant No.1 Kaushilya Bai is an illiterate lady.

10. In the considered view of this Court, by closing the opportunity to adduce the evidence at the very first day of hearing fixed for recording the evidence cannot be held as proper. The order of the Tribunal is improper and liable to be set aside.

11. Consequently, the instant WP(227) is hereby allowed. The rejection of the opportunity to adduce the evidence on behalf of the Petitioners is hereby set aside. As there is no prayer for consideration regarding other part of the order, the same is held to be not the subject matter of the instant WP (227). The Tribunal is directed to give an reasonable opportunity to all the parties concerned to adduce their evidence in the matter and further directed to dispose of the matter as expeditiously as possible, in accordance with law.

12. The instant WP (227) is hereby disposed of in above terms.

13. No order as to costs.

Sd/-

Chandra Bhushan Bajpai  
**Judge**