

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 5 of 2016

Vijay Kumar Chandel S/o Late Shri Arjun Singh Chandel, Aged about 48 Years, Branch Manager, National Insurance Company, Branch Office No.2, Raipur (Chhattisgarh), R/o Q. No. M.I.G.-7, Sector 3, Shankar Nagar, Raipur (Chhattisgarh) (Since Dead) Through LR's.

1. Smt. Meera Chandel W/o Late Vijay Kumar Chandel, Aged about 61 Years,
2. Vishal Chandel S/o Late Vijay Kumar Chandel, Aged about 39 Years,
3. Vaibha Chandel S/o Late Vijay Kumar Chandel, Aged about 35 Years, All R/o A/46, Minocha Colony, Distt.- Bilaspur (Chhattisgarh)

---- Applicants

Versus

1. Bhuwaneshwar Rao Shinde S/o Tulsi Ram Shinde, Occupation Jeep Driver, R/o Lodi Para, Raipur, P.S.- Civil Line, Tehsil and Dist.- Raipur, (Chhattisgarh).
2. Nade Ali, Occupation Jeep Owner, R/o New Bus Stand Pandri, Raipur, Tehsil and Dist.- Raipur (Chhattisgarh)
3. The Oriental Insurance Company Ltd, City Branch Office No.1, Shyam Market Pandri, Raipur, Through Divisional Manager, Divisional Office, Kutchery Chowk, Jail Road, Raipur (Chhattisgarh)

---- Non-applicants

And

MCC No. 496 Of 2015

Vijay Kumar Chandel S/o Late Shri Arjun Singh Chandel, Aged about 48 Years, Branch Manager, National Insurance Company, Branch Office No. 2, Raipur (Chhattisgarh) R/o Q.No. MIG 7, Sector 3, Shankara Nagar, Raipur (Chhattisgarh) (Since Dead) through LR's.

1. Smt. Meera Chandel W/o Late Vijay Kumar Chandel, Aged about 61 Years.
2. Vishal Chandel S/o Late Vijay Kumar Chandel, Aged About 39 Years .
3. Vaibhav Chandel S/o Late Vijay Kumar Chandel, Aged About 35 Years.

All R/o A/46, Minocha Colony, Bilaspur District Bilaspur (Chhattisgarh)

---- Applicants

Versus

1. Bhuwaneshwar Rao Shinde S/o Tulsi Ram Shinde, Occupation Jeep Driver, R/o Lodhi Para, Raipur, PS Civil Lines, Tahsil and District Raipur (Chhattisgarh)
2. Nade Ali, Occupation Jeep Owner, R/o New Bus Stand Pandri, Raipur, Tahsil and District Raipur (Chhattisgarh)
3. The Oriental Insurance Company Ltd., City Branch Office No. 1, Shyam Market, Pandri, Raipur, Through Divisional Manager, Divisional Office Kachhari Chowk, Jail Road, Raipur (Chhattisgarh)

---- Non-Applicants

For the Applicants	:	Shri Basant Dewangan, Advocate.
For the Non-applicant No.3	:	Shri Abhishek Sinha & Shri Ghanshyam Patel, Advocates

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay K. Agrawal

ORDER ON BOARD

16/08/2016

1. Shri Vijay Kumar Chandel had filed an appeal for enhancement of the awarded amount. This appeal was dismissed in default. Thereafter, an application for restoration was filed. In the meantime, Vijay Kumar Chandel died on 27-12-2012, therefore, his legal representatives had to be brought on record in the restoration application as well as in the appeal after restoration . The application for restoration was also dismissed. Thereafter, The petitioners filed an application for restoration of MCC and this was withdrawn on 16-12-2014, when the following order was passed.

“Heard.

Learned counsel for the petitioner submits that Vijay Kumar Chandel, main applicant has died on 27-12-2012, therefore, he seeks to withdraw the petition with liberty to file appropriate application under Order 22 Rule 9 of the Civil Procedure Code along with other supporting applications.

Consequently, the M.C.C. is dismissed as withdrawn reserving the aforesaid liberty.”

2. Thereafter, a fresh MCC was filed on 7th May, 2015 in which the prayer made is that abatement, if any, be set aside and the L.Rs of Vijay Kumar Chandel be brought on record. An application for condonation of delay has also been filed. In the application for condonation of delay there is not even a word stated that why the said petition was not filed immediately after 16-12-2014 and why it took almost six months' time for the petitioners to file this application. This Court is normally very liberal in condoning the delay, but some semblance of explanation has to be given. In this case, there is no explanation whatsoever. Therefore, the application is dismissed.
3. The application filed for recalling of order dated 16-12-2014 is totally misconceived. Therefore, the review petition is also dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay K. Agrawal)
JUDGE