

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 959 of 2015**

Oriental Insurance Company Ltd. Sadar Bazar, Jagdalpur, District Bastar, Through Divisional Manager, Divisional Office No. 2, Raipur (Chhattisgarh).....( Insurer)

**---- Petitioner****Versus**

1. Kamal Kumar Nirmalkar S/o Shri Sukalu Ram Nirmalkar, Aged About 26 Years ( Since Dead) Through Legal Heirs of (Original Claimant)
  1. a Smt. Satya Aged about 24 Years Wd/o Late Kamal
  1. b Sukalu Ram Aged about 48 Years S/o Karsan,
  1. c Shanti Bai Aged about 45 Years W/o Sukalu Ram. All are R/o Plotpara, Parasgaon, Tahsil Kondagaon, District Bastar (Chhattisgarh).
2. Bodhan Ram S/o Janakiram, Mahendra Travels, Raipur (Chhattisgarh).....Driver
3. Wasan Singh S/o Joginder Singh, Mahendra Tour Travels, New Bus Stand Raipur (Chhattisgarh).....Owner

**---- Respondents**


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|--------------------------|---|-----------------------------|
| For Petitioner           | : | Shri Raj Awasthi, Advocate. |
| For Respondent No.1a     | : | Unserved.                   |
| Respondents No.1b & 1c   | : | Died.                       |
| For Respondents No.2 & 3 | : | Not noticed.                |

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**Hon'ble Shri Justice Chandra Bhushan Bajpai****Order On Board****02/02/2016**

1. Learned counsel for the Petitioner submits that as per the facts narrated in the instant WP (227) the matter may be disposed of finally.
2. As prayed, this petition is heard finally at the motion stage.
3. As per the facts regarding instant WP (227), the LR's of Respondents No.1a, 1b and 1c have filed a claim petition before the Additional MACT (FTC) Kondagaon, Bastar, which vide award dated 28.11.2007 passed in Claim Case No.91 of 2007 has allowed the same. Initially, the claim case

was filed by Respondent No.1, after his death the LRs of Respondent No.1 were substituted. The Claims Tribunal has allowed the claim for Rs.3,24,000/- payable to the Applicants alongwith interest and cost of the litigation.

4. Against the said award, the Petitioner preferred MA(C) No. 1300 of 2008 wherein by order dated 15.10.2008, this Court directed the Petitioner to deposit the entire amount with the concerned Tribunal and further ordered that the same shall not be disbursed to the other side. This Court had finally disposed of the said MA(C) No. 1300 of 2008 vide order dated 17.10.2011 setting aside the impugned award passed by the Claims Tribunal and remanded back the matter for decision afresh in light of the observations made in the order. Thereafter, the Additional MACT Kondagaon after hearing both the parties afresh passed the award dated 14.11.2012 with new registration number 121 of 2012 and dismissed the claim petition filed by the LRs of Respondent No.1. The Petitioner deposited the amount of Rs.3,70,398/- (the claim amount and interest amount on 19.1.2009) and the same is still lying before the MACT, Kondagaon. When the Petitioner filed an application to withdraw the same, the Claims Tribunal dismissed the application for withdrawal of the amount already deposited and held that as the amount was ordered to be deposited as per order of the Superior Court, hence it would not be proper to return the same amount by the Tribunal. The Petitioner had invoked the authority under Article 227 of the Constitution of India before this Court by filing the instant writ petition and submits that as there is no award till date, as per order dated 15.1.2008, the Petitioner has deposited the amount, the same may be returned to the Petitioner.

5. Heard Learned counsel for the Petitioner, who submits that as there is no award against the Petitioner and the Petitioner has deposited the amount as per order of this Court, the Claims Tribunal has dismissed the claim petition vide award dated 24.11.2012, there is no direction of any Court to pay any amount to the LR's of Respondents No.1a, 1b and 1c, hence, the amount deposited by the Petitioner may be refunded.
6. For the purposes of appreciation of the prayer as sought in the present WP (227), the impugned order and the aforementioned award are perused.
7. From perusal of the entire material, as per award dated 24.11.2012 the Claims Tribunal has dismissed the claim petition. The award dated 28.11.2007 was set aside by the orders of this Court in M.A.(C) No. 1300 of 2008 dated 17.10.2011 and thereafter the court below after hearing the matter afresh dismissed the claim petition. As such, the amount so deposited by the Petitioner as per interim order dated 15.10.2008 liable to be refunded to the Petitioner as there is no award for any amount for the moment against the Petitioner.
8. On due consideration, the petition filed by the Petitioner is hereby allowed. The Court below is directed to refund the entire amount i.e. Rs.3,70,398/-, if deposited, to the Petitioner immediately.
9. Copy of the order be sent to the Court below for compliance.
10. Certified copy of the order as per rules.
11. The WP (227) is allowed.

Sd/-

Chandra Bhushan Bajpai  
**Judge**