

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1033 of 2015

1. Reliance General Insurance Company Limited 570, Naigaoan Cross Road, Beside Royal Industrial Estate, Wadala (West Mumbai) Maharashtra Pin 400031- Branch Office- 3rd Floor, Ravi Bhawan, Jaistambh Chowk, Raipur, At Present- 5th Floor, National Corporate Park, G.E. Road, Police Station Saraswati Nagar, Civil and Revenue Distt. Raipur, Chhattisgarh (Insurer)

---- Appellant

Versus

1. Smt. Prakash Kaur S/o Late Lakhvinder Singh, aged about 40 years, R/o Vill. Darbari Toli, Jashpurnagar, Tahsil and Dist. Jashpur, P.S. Jashpur, Civil and Revenue Dist. Jashpur, Chhattisgarh
2. Ku. Gurmit Kaur D/o Lakhvinder Singh aged about 20 years, R/o Vill. Darbari Toli, Jashpurnagar, Tahsil and Dist. Jashpur, P.S. Jashpur, Civil and Revenue Dist. Jashpur, Chhattisgarh
3. Balbir Singh S/o Lakhvinder Singh aged about 18 years, R/o Vill. Darbari Toli, Jashpurnagar, Tahsil and Dist. Jashpur, P.S. Jashpur, Civil and Revenue Dist. Jashpur, Chhattisgarh
4. Minor Daljit Kaur D/o Lakhvinder Singh aged about 15 years, minor and hence representing through the mother Smt. Prakash Kaur, R/o Vill. Darbari Toli, Jashpurnagar, Tahsil and Dist. Jashpur, P.S. Jashpur, Civil and Revenue Dist. Jashpur, Chhattisgarh
5. Minor Ranvir Singh S/o Lakhvinder Singh aged about 12 years, minor and hence representing through the mother Smt. Prakash Kaur, R/o Vill. Darbari Toli, Jashpurnagar, Tahsil and Dist. Jashpur, P.S. Jashpur, Civil and Revenue Dist. Jashpur, Chhattisgarh
6. Smt. Savinder Singh W/o Late Gurudayal Singh aged about 80 years, R/o Vill. Darbari Toli, Jashpurnagar, Tahsil and Dist. Jashpur, P.S. Jashpur, Civil and Revenue Dist. Jashpur, Chhattisgarh (Claimants)
7. Rajiv Kumar Singh S/o Bramhdev Singh aged about 34 years, ITI Itki Ranchi Police Station Sukhdevnagar, Civil and Revenue Dist. Ranchi (Jharkhand) (Owner and Driver)

---- Respondents

For Appellant – Smt. Smita Jha, Advocate.

For Respondents 1 to 6 – Shri Rishikant Mahobia, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

07-12-2016

1. Heard on I.A.No.4/2016 for exemption from service of notice to respondent No.7.
2. Learned counsel for the appellant would submit that as respondent No.7 Rajiv Kumar Singh remained ex-parte during trial before the concerned

Tribunal, hence, under the provision of Order 41 Rule 14 sub-rule 4 of the CPC he may be dispensed with service of notice.

3. On due consideration, I.A.No.4/2016 is hereby allowed. The appellant is dispensed with issuance of notice and service to respondent No.7.

4. Also heard on I.A.No.1/2015 for condonation of delay in filing appeal as the instant MAC has been preferred after 359 days of its limitation.

5. Learned counsel for the appellant would submit that while complying the procedure of the appellant, delay of 359 days occurred in filing the instant MAC which is not deliberate, hence, the same may be condoned.

6. Perused the impugned award dated 12 May, 2014. Copy of the said award is true copy of the award. As this is not certified copy obtained from copying section of the Court below, it appears that this is a copy of the award given to authority of the appellant under the provision of Section 168(2) of the Motor Vehicles Act, 1988. Any procedural formalities does not give any right to the appellant for such delay and for filing the instant MAC so lately. The Court can understand delay of a few days in filing the MAC, but looking to the fact that the delay is about almost a year, in the considered view of this Court, the appellant has failed to explain such delay satisfactorily. Consequently, I.A.No.1/2015 is hereby dismissed as not maintainable. The MAC also stands dismissed being barred by limitation by 359 days.

7. The MAC dismissed.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE