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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.367 of 2017**

Shriram General Insurance Company Limited Through Branch Manager, Sitapara, Jaipur Rajasthan (Insurer Of Vehicle Pick Up No. C.G. 06 C 0609/ Non- Applicant No. 3)

**---- Petitioner/
Non-applicant No.3**

Versus

1. Krishna Bandhu Devnath S/o Late Akshay Devnath, Aged About 50 Years R/o Farasgaon, Thana And Tahsil Farasgaon, District Kondagaon (Chhattisgarh).....(Claimant).
2. Vibhash S/o Krishna Bandhu Devnath, Aged About 13 Years Represented Through Natural Guardian Father Respondent No. 1, R/o Farasgaon, Thana And Tahsil Farasgaon, District Kondagaon (Chhattisgarh).....(Claimant).
3. Ajay Kaushal, S/o Mangal Ram, Aged About 34 Years R/o Farasgaon, Thana And Tahsil Farasgaon, District Kondagaon (Chhattisgarh)...(Driver Of Vehicle Pick Up No. C.G. 06 C 0609/ Non- Applicant No. 1).
4. Narendra Singh Bhardwaj S/o Dalbir Singh Bhardwaj, Aged About 39 Years R/o Farasgaon, Thana And Tahsil Farasgaon, District Kondagaon (Chhattisgarh)....(Owner Of Vehicle Pick Up No. C.G. 06 C 0609/ Non- Applicant No. 2).
5. National Insurance Company Limited, Jagdalpur, District Bastar (Chhattisgarh) (Insurer Of Motorcycle No. C.G. 17 K C- 7845/ Non-Applicant No. 4).

--- Respondents

For Petitioner : Mr. Sachin Singh Rajput, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

17/05/2017

(1) In a claim case preferred by the claimants/respondents No.1 & 2 herein under Section 166 of the Motor Vehicles Act, 1988 in which the petitioner filed an application under Order 9 Rule 7 of the Code of Civil Procedure (for short, 'CPC') which has been rejected by the Claims Tribunal, Kondagaon in Claim Case No.90/2014 for want of

prosecution/default against which, this petition under Article 227 of the Constitution of India has been filed by the petitioner.

(2) Learned counsel appearing for the petitioner submits that the counsel for the petitioner in the court below was present in the first round before the Tribunal, but he was asked to come after lunch period when he entered into appearance before the Tribunal at about 3:30 pm and came to know that the application under Order 9 Rule 7 of CPC was dismissed for want of prosecution/default at 3:15 pm, therefore, the impugned order deserves to be set-aside.

(3) I have heard learned counsel for the petitioner and perused the impugned order with utmost circumspection.

(4) After hearing learned counsel for the petitioner, I am of the considered opinion that the counsel for the petitioner has shown sufficient cause for his non-appearance before the Tribunal when the case was called up for hearing on 22.03.2017, therefore, I deem it expedient to set-aside the impugned order dated 22.03.2017 passed by the Tribunal and allow the petitioner to take part in the proceeding. However, the claimants/respondents No.1 & 2 herein are at liberty to move an application for modification of the order, if they are aggrieved.

(5) With the aforesaid observation, the writ petition stands finally disposed of. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-