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HIGH COURT OF CHHATTISGARH, BILASPUR**M.C.C No.536 of 2017**

The Oriental Insurance Company Limited Through Divisional Office, Divisional Manager, Katchaheri Chowk, Raipur, District Raipur Chhattisgarh..... Insurer.

---- Applicant**Versus**

1. Smt. Dhaneshwari Nishad Wd/o Late Dilip Kumar Nishad Aged About 30 Years R/o Village Kankalipara, Simga, District Raipur Chhattisgarh.
2. Harsh Nishad S/o Late Dilip Kumar Nishad Aged About 12 Years R/o Village Kankalipara, Simga, District Raipur Chhattisgarh. (Minor)
3. Ku. Rashmi Nishad D/o Late Dilip Kumar Nishad Aged About 8 Years R/o Village Kankalipara, Simga, District Raipur Chhattisgarh. (Minor)
4. Lakshya Kumar S/o Late Dilip Kumar Nishad, Aged About 02 Months S/o Late Dilip Kumar Nishad R/o Village Kankalipara, Simga, District Raipur Chhattisgarh. (Minor)
5. Jantrin Bai Nishad Wd/o Late Itwari Ram Nishad R/o Village Kankalipara, Simga, District Raipur Chhattisgarh.
6. C. Yadu Bhushan, Through Trilochan Singh. Near Minocha Petrol Pump, Telibandha, Raipur Chhattisgarh. Owner

-----Non-Applicants

For Applicant:	Shri Raj Awasthi, Advocate.
For Respondents:	None.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

04.09.2017

1. Heard on admission.
2. This M.C.C has been filed for restoration of M.A.(C) No.759/2017, which was dismissed in default as per the peremptory order passed by this Court on 19.5.2017.
3. The Applicant has filed the said Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 (wrongly mentioned as under

Section 30 of the Employees Compensation Act) (for short 'the Act) against the impugned award dated 17.2.2017 passed by the 3rd Additional Motor Accidents Claims Tribunal, Raipur in Claims Case No.592/2014. The said Appeal was registered as M.A.(C) No.759/2017 and placed before the Court on 19.5.2017 on default. After considering the submissions of learned Counsel for the Appellant, this Court, vide its order dated 19.05.2017 has granted two weeks' time for removing the default as pointed out by the Registry and directed further that non-compliance of the said order would lead to dismissal of the said Appeal without further reference to the Bench. Since the compliance was not made in time, therefore, the said Appeal was treated as dismissed vide Office note dated 04.07.2017.

4. Mr. Raj Awasthi, learned Counsel for the Applicant submits that there is some delay in complying with the direction contained in the said order dated 19.05.2017 but the same was not deliberate and in fact he has cured the same by furnishing the requisite copy of order passed under Section 170 of the Motor Vehicles Act, 1988 and also by furnishing the mandatory receipt as required under Section 173 of the Act on 13.06.2017. He submits further that he has also moved an application for extension of time in this regard.

5. I have heard learned Counsel for the Applicant, perused the relevant papers and that by considering the facts and circumstances of the case, I am inclined to allow this M.C.C. As per the aforesaid direction, the default was required to be removed within a period of two weeks from 19.5.2017. Although it was not cured in time, but it was removed on 13.6.2017 by furnishing the relevant documents. I do not find any mala

fide intention in not complying the same in time. Therefore, the instant M.C.C is hereby allowed and M.A.(C) No.759/2017, which was dismissed for non-compliance of order dated 19.5.2017 is restored to its original number. No order as to costs.

(Sanjay Agrawal)
JUDGE

Priya