

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 844 of 2017**

Branch Manager HDFC Ergo General Insurance Company Limited, Branch
Office, Raipur, District Raipur, Chhattisgarh(Insurance Company/
Non Petitioner No.3)

---- Petitioner**Versus**

1. Smt. Ramli Bai Wd/o Tulchand Bhogami, aged about 27 years, R/o Bhelwapdar Ward, Kondagaon, Tehsil, Thana & District Kondagaon, Chhattisgarh(Claimant)
2. Sanjay Janghela S/o Govind Janghela, aged about 38 years, R/o Patan Azad Chowk, Thana Patan, District Durg, Chhattisgarh(Driver)
3. Devendra Kumar Purohit S/o Shyamlal Purohit, R/o House No.6-A, Satabadi Nagar, Dallirajhara, Durg, Pin No. 491001(Owner)

---- Respondents

For Petitioner : Mr. Bhaskar Payashi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****16/11/17**

1. By the impugned order dated 27.10.2017, petitioner's written statement has not been taken on record by the Claims Tribunal, although his right to file written statement has not been closed.

2. Learned counsel appearing on behalf of petitioner would submit that petitioner is an Insurance Company and the since it is a claim case, filing of the written statement by the petitioner under the proviso to Order 8 Rule 1 CPC is mandatory. In support of his submissions, he relied upon the decision rendered by Hon'ble Supreme Court in the matter of **Kailash v. Nanhku and Others**¹.

¹ (2005) 4 SCC 480

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

4. Since the right of the petitioner to file the written statement has not been closed by the Claims Tribunal, it would be expedient to direct the Claims Tribunal to grant opportunity to the petitioner to file his written statement subject to payment of cost of Rs. 5,000/- to the respondents / claimants on the next date of hearing. It is directed that the written statement shall now be taken on record and the Claims Tribunal will frame the issues and shall proceed further in accordance with law. However, the respondents would be 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 cost(s).

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge