

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 887 of 2017**

ICICI Lombard General Insurance Company Ltd. ICICI Lombard House 414, Veer Sawarkar Marg Near Siddi Vinayak Temple, Prabhadevi, Mumbai 400025 through the Branch Manager, ICICI Lombard General Insurance Company Ltd. B. R. Plaza, 2nd Floor, Link Raod Bilaspur Tehsil and District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. Smt. Rama Dewangan W/o Late Shri Lokesh Kumar Dewangan, aged about 51 years, R/o SE 319, CSEB Colony Korba East Tehsil and District Korba Chhattisgarh (Claimant No. 1)
2. Akhilesh Kumar Dewangan S/o Late Shri Lokesh Kumar Dewangan aged about 27 years, R/o SE 319, CSEB Colony Korba East Tehsil and District Korba Chhattisgarh (Claimant No. 2)
3. Ku. Anjali Dewangan D/o Late Shri Lokesh Kumar Dewangan aged about 24 years, R/o SE 319, CSEB Colony Korba East Tehsil and District Korba Chhattisgarh (Claimnment No. 3)
4. Sagar Dewangan S/o Late Shri Lokesh Kumar Dewangan aged about 21 years, R/o SE 319, CSEB Colony Korba East Tehsil and District Korba Chhattisgarh (Claimant No. 4)
5. Ramkishore S/o Shri Dhaniram aged about 48 years, R/o Kanshi Nagar, Budhwari, O P Rampur Tehsil and District Korba Chhattisgarh (Non Applicant No. 1)
6. Shiv Jaiswal S/o S. L. Jaiswal, R/o Village Bhaisma, Thana Urga Tehsil and District Korba Chhattisgarh (Non Applicant No. 2)

---- Respondents

For Petitioner : Mr. Amrito Das, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29/11/17**

1. The petitioner filed an application under Order 6 Rule 17 of the C.P.C.

for amendment in the claim petition on 10.10.2017 after the commencement of the trial which was rejected by the Claims Tribunal vide order dated 30.10.2017 finding no merit against which this writ petition under Article 227 of the Constitution has been preferred by the petitioner.

2. Learned counsel appearing on behalf of the petitioner would submit that the proposed amendment is absolutely necessary for just and proper disposal of the claim petition and the Claims Tribunal has committed a legal error in rejecting the said application therefore, the impugned order be set aside.

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

4. On careful perusal it appears that the application for amendment is blissfully silent as to why the amendment application has not been preferred by the petitioner before the commencement of the trial and admittedly the trial has now commenced and the claimants evidence has already been closed. The Supreme Court in the case of **Vidyabai and others Vs. Padmalatha and another**¹ has already held that the proviso to Order 6 Rule 17 of the C.P.C. is mandatory and as such the application for amendment is in teeth of the proviso to Order 6 Rule 17 of the C.P.C.

5. In view of the above, the trial Court is absolutely justified in rejecting the amendment application filed by the petitioner under Order 6 Rule 17 of the C.P.C. in which I do not find any jurisdictional error.

6. Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge