

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 61 OF 2017**

Gopal Krishna Sahu S/o S. R. Sahu, Aged About 43 Years Gayatri Mandir Road
Bhadrapara Balko Tahsil & District Korba, Chhattisgarh

---- **Petitioner****Versus**

1. Smt. Geeta Sao W/o Sanjay Sao, Aged About 37 Years R/o Arigation Chowk Darri, Darri Khar, Tahsil Katghora, District Korba, Chhattisgarh
2. Ku. Gudia D/o Late Sanjay Sao, Aged About 18 Years R/o Arigation Chowk Darri, Darri Khar, Tahsil Katghora, District Korba, Chhattisgarh
3. Ku. Radha D/o Late Sanjay Sao, Aged About 15 Years Minor Through Guardian Mother Smt. Geeta Sao W/o Late Sanjay Sao, Aged About 37 Years, R/o Arigation Chowk Darri, Darri Khar, Tahsil Katghora, District Korba, Chhattisgarh
4. Ku. Preeti D/o Late Sanjay Sao, Aged About 12 Years Minor Through Guardian Mother Smt. Geeta Sao W/o Late Sanjay Sao, Aged About 37 Years, R/o Arigation Chowk Darri, Darri Khar, Tahsil Katghora, District Korba, Chhattisgarh
5. Ku. Shilpa D/o Late Sanjay Sao, Aged About 7 Years Minor Through Guardian Mother Smt. Geeta Sao W/o Late Sanjay Sao, Aged About 37 Years, R/o Arigation Chowk Darri, Darri Khar, Tahsil Katghora, District Korba, Chhattisgarh
6. Hari Shankar Sahu S/o Manharan Lal Sahu, Aged About 37 Years Permanent R/o Village Kapan District Janjgir-Champa, At Present Address Purani Basti Darri Tahsil Katghora, District Korba, Chhattisgarh
7. The Oriental Insurance Company Limited, Geetanjali Bhavan Purana Bus Stand Korba, Tahsil & District Bilaspur, Chhattisgarh

---- **Respondents**

 For petitioner

: Mr. Amit Kumar, Advocate

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****31/10/2017**

1. Heard on I.A. No. 01/2017, an application for condonation of delay of 87 days in filing this review petition.

2. For the reasons mentioned in the application, the application (I.A. No. 01/2017) is allowed and the delay of 87 days in filing this review petition is accordingly condoned.

3. Also heard on admission.

4. This is a review petition preferred by the petitioner under Order 47 Rule 1 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') praying for to review the order dated 23/12/2016 passed by this Court in M.A.(C) No.362/2016.

5. Mr. Amit Kumar, learned counsel for the petitioner submits that when the order impugned was passed, at that particular time, he was not present, therefore, the delay could not be explained properly in filing the said Miscellaneous Appeal, which was preferred against the award dated 02/03/2013 passed by the Additional Motor Accident Claims Tribunal, Katghora District Korba (C.G.) in C.T. No.36/2009. It is therefore submitted that the order impugned may be recalled and at least one opportunity be granted to him, so that he may explain the delay as occurred in preferring the said Miscellaneous Appeal in its proper manner.

6. I have heard learned counsel appearing for the petitioner and perused the entire documents annexed with this review petition carefully.

7. By order dated 23/12/2016, this Court has considered very specifically that the award dated 02/03/2013 was required to be questioned in Miscellaneous Appeal as per the provisions prescribed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M. V. Act'). However, instead of preferring the same, the same was questioned by filing the review petition as per the provisions prescribed under Order 47 Rule 1 of the CPC. This Court after considering the relevant Rules as provided under Rule 240 of the CG Motor

Vehicles Rules, 1994 has observed very specifically that the provisions of Order 47 of the CPC for review of the said award is not applicable. After considering as such, this Court has refused to condone the delay of 998 days in filing the Miscellaneous Appeal preferred under Section 173 of the M.V. Act.

8. In view of the aforesaid facts and circumstances of the case, I do not find any mistake or error, which is apparent on the face of the record so as to recall the order impugned dated 23/12/2016 passed in M.A.(C) No.362/2016. Accordingly, the review petition deserves to be and is hereby dismissed at the admission stage itself. There shall be no order as to costs.

Sd/-

(Sanjay Agrawal)
Judge