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HIGH COURT OF CHHATTISGARH, BILASPUR**M.C.C. No. 676 of 2017**

1. Branch Manager, Shriram General Insurance Company Limited E-8, R I I C O Industrial Area, Sitapur, Rajasthan 302022 Present Address Shriram General Insurance Company Limited, Ambikapur, District Surguja, Chhattisgarh(Insurer)

---- Applicant**Versus**

1. Smt. Maya Devi W/o Late Viranchilal Sahu, Aged About 45 Years Caste Teli, R/o Village Rampur, Post Patna, Tahsil Baikunthpur, District Koriya, Chhattisgarh
2. Siddharth Kumar S/o Late Viranchilal Sahu, Aged About 25 Years Caste Teli, R/o Village Rampur, Post Patna, Tahsil Baikunthpur, District Koriya, Chhattisgarh
3. Ramadhin Sahu S/o Late Nanhuram Sahu, Aged About 90 Years Caste Teli, R/o Village Rampur, Post Patna, Tahsil Baikunthpur, District Koriya, Chhattisgarh(Claimants)
4. Pradeep Kumar Rajwade S/o Shri Sumarsai, Aged About 30 Years Occupation Driver, R/o Village Rampur, Post Patna, Tahsil Baikunthpur, District Koriya, Chhattisgarh(Driver)
5. Babulal Kurre S/o Bhagwandas, Aged About 58 Years Occupation Service & Vehicle Owner, R/o Village Katkona, Masjidpara, Post Katkona, Present Address Village Tendua, Post Ranai, P.S. Patna, Tahsil Baikunthpur, District Koriya, Chhattisgarh(Owner)

---- Non-applicants

For Applicant:
For Non-Applicants:

Shri Sachin Singh Rajput, Advocate
None.

Single Bench: Hon'ble Shri Sanjay Agrawal, J**Order On Board****18.09.2017**

1. Heard on I. A. No. 1, an application for condonation of delay of 61 days in filing this MCC.

2. On due consideration, the application is allowed and the delay of 61 days is accordingly condoned.
3. Also heard on admission.
4. This M.C.C. has been filed for restoration of M.A(C) No.758/2017, which was dismissed for non- compliance of peremptory order dated 19.05.2017 passed by this Court.
5. The applicant has filed the Miscellaneous Appeal against the award dated 04.10.2016 passed by Motor Accidents Claims Tribunal, Baikunthpur, District – Koriya under Section 173 of the Motor Vehicle Act, 1988. The said appeal was registered as M. A.(C) No. 758/2017. After checking the said matter, the registry has placed the matter before the Court on 19.05.2017 by pointing out as many as six defaults. After considering the submission of the applicant, this Court vide order dated 19.05.2017 has directed the applicant to remove the defaults within a period of two weeks, failing which, the appeal shall stand dismissed without further reference to the Bench.
6. Since the compliance of the Court order dated 19.05.2017 was not made in time, therefore, the said appeal was treated as dismissed on 16.08.2017.
7. Shri Sachin Singh Rajput, Counsel for the applicant submits that he has removed two major defaults out of the said six defaults by furnishing the copy of receipt amounting to Rs. 25,000/-, as required under Section 173 of the Motor Vehicle Act, 1988, and, also by filing the duly signed *Vakalatnama*. He submits further that other defaults are clerical in nature and because of certain unavoidable circumstances, it could not be cured in time and for which he has moved an application for extension of time so that the clerical mistakes could also be removed.

8. I have heard learned Counsel for the Applicant and perused the entire relevant papers and that by considering the facts and circumstances of the case, I am inclined to allow this MCC. As per the direction of this Court, the entire defaults were required to be cured within a period of two weeks from 19.05.2017. Perusal of the record would show that two out of the six defaults have already been cured in time whereas other defaults could not have been removed because of the reasons mentioned in the main application as well as in the application for extension of time. Although the entire defaults could not have been cured as per the direction of this Court, but two of it have been cured much before in time which shows that non-compliance of the order, dated 19.05.2017 was not deliberate and, in fact has been occurred bona fide as evidenced by the reasons assigned in the applications.

9. In view of the said fact, I do not find any malafide intention in not complying with the same in time. The applicant is hereby granted 10 days' time more to remove the rest of the defaults. Consequently, the instant MCC is hereby allowed and M. A.(C) No. 758/2017, dismissed for non-compliance of order dated 19.05.2017, is restored to its original number subject to above mentioned terms. No order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE