

HIGH COURT OF CHHATTISGARH, BILASPUR**C.R. No. 194 of 2017**

1. Larang Paikra S/o Bodhan Ram, Aged About 54 Years R/o Village Bakasपुर, Post Bhulsikala (Wrongly Mentioned As Bhulsikala In The Impugned Order) Police Station And Tahsil- Kusmi, District Balrampur- Ramanujganj, Chhattisgarh. **---- Applicant**

Versus

1. Raghoram @ Raghav S/o Dashai Nageshiya, aged about 40 years, R/o Village : Champa, P.S. Champa, District Jashpur (C.G.) (Driver of the offending vehicle).
2. Ravi Kumar, S/o Leela Ram, Aged About 21 Years R/o Village Parsa, Police Station Ambikapur, District Sarguja, Chhattisgarh. (Conductor Of The Offending Vehicle)
3. Majhrun Khan, W/o Mohamed Shamim, Aged About 45 Years R/o Village Dumardih (Kadampara), Police Station Lundra, District Sarguja, Chhattisgarh.
4. Divisional Manager, Through Oriental Insurance Company Limited, Near Ambedkar Chowk, Manendragarh, District Sarguja, Chhattisgarh. (Insurer Of Offending Vehicle)
5. Smt. Lakhani Paikra, W/o Larang Paikra, Aged About 50 Years Occupation House Wife, R/o Village Bakasपुर, Post Bhulsikala (Wrongly Mentioned As Bhulsikala In The Impugned Order) Police Station And Tahsil Kusmi, District Balrampur- Ramanujganj, Chhattisgarh.
6. Sachin Kumar Paikra, S/o Larang Paikra, Aged About 20 Years Occupation Student, R/o Village Bakasपुर, Post- Bhulsikala (Wrongly Mentioned As Bhulsikala In The Impugned Order) Police Station And Tahsil- Kusmi, District Balrampur- Ramanujganj, Chhattisgarh.
7. Devnath Paikra, S/o Larang Paikra, Aged About 17 Years Minor, Occupation- Student, Through The Natural Guardian For The Applicant Larang Paikra, R/o Village Bakasपुर, Post Bhulsikala (Wrongly Mentioned As Bhulsikala In The Impugned Order) Police Station And Tahsil Kusmi, District Balrampur- Ramanujganj, Chhattisgarh.
8. Kumari Mahima Paikra, D/o Larang Paikra, Aged About 13 Years Minor, Occupation- Student, Through The Natural Guardian For The Applicant Larang Paikra, R/o Village Bakasपुर, Post Bhulsikala (Wrongly Mentioned As Bhulsikala In The Impugned Order) Police Station And Tahsil Kusmi, District Balrampur- Ramanujganj, Chhattisgarh. **---- Non-applicants**

For Applicant:

Shri V. K. Pandey, Advocate.

For Non-applicants:

None.

Single Bench: Hon'ble Shri Sanjay Agrawal, J

Order On Board

11.12.2017

1. Heard on admission.

2. This Revision Petition has been preferred against the Order dated 13.10.2017 passed in Miscellaneous Motor Accident Claim Case No. 302/2015, by which, the application for withdrawal of sum of Rs. 4,00,000/- has been refused.

3. Shri Pandey submits that on account of death of the applicant's son, a claim petition enumerated under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act of 1988') was submitted before the Motor Accidents Claims Tribunal, Ambikapur, District – Surguja (for short 'the Claims Tribunal') where the case was registered as Claim Case No. 302/2015. The concerned Claims Tribunal, by its award dated 22.07.2016, has decreed the claim in part and awarded a sum of Rs. 48,13,916/- along with interest @ 7% per annum from the date of filing the claim petition till its realisation.

4. Since the aforesaid award has been passed while fastening the liability upon the insurance company, therefore, an appeal under Section 173 of the Act of 1988 has been made by the Insurance Company by questioning the same in Miscellaneous Appeal being M.A.(C) No. 1671/16. After hearing the said appeal on admission, this Court vide Order dated 15.12.2016, has stayed the impugned award as passed by the Claims Tribunal on the condition that if the appellant/insurance company deposits 50% of the said awarded amount along with the interest till date and cost of the award within a period of 45 days from the said date, then the

remaining part of the award shall remain stayed until disposal of I.A. No 02/2016 as filed therein. It is directed further that if the appellant fails to deposit the amount so directed within the stipulated period, the Court shall be at liberty to execute the entire amount.

5. As per the aforesaid direction, the appellant/ insurance company has deposited 50% of the awarded amount. After depositing the said amount, the remaining 50% has been disbursed to the applicant and other claimants as per the observation made in para- 19 of the award dated 22.07.2016.

6. It is stated by Shri Pandey that as per the aforesaid direction, an amount of Rs. 10,21,900/- has been deposited in the Nationalized bank (United Bank of India) for a fixed period of 10 years in the name of the present applicant. Since the present applicant is in need of money, therefore, he has moved an application on 09.10.2017 supported by an affidavit for withdrawal of sum of Rs. 4,00,000/- (Rupees four lakhs only), out of the total sum of Rs. 10,21,900/- (Rupees ten lakhs twenty one thousand and nine hundred only) before the learned Claims Tribunal by submitting *inter alia* that he requires the said amount for the purpose of construction of the house. It is submitted further by Shri Pandey that in support of the said application, the statement of the present applicant was recorded and he has stated very specifically that he requires the said amount for construction of the house. However, the said application has been rejected by the Claims Tribunal while referring to order passed by this Court in MAC No. 1671/2016 even without considering the prayer made in the said application for withdrawal of the said amount. He, therefore, submits that the applicant for his alleged need be permitted for

withdrawal of the said amount of Rs.4,00,000/-.

7. Having considered the facts and circumstances of the case and that by considering the contents made in the application for withdrawal of the said amount, vis-a-vis, the statements of the applicant recorded in this regard, I am of the opinion that the need of the applicant for withdrawal of the said amount with respect to the construction of the house is genuine and bonafide. The revision petition, therefore, deserves to be and is hereby allowed.

8. Consequently, present applicant-Larang Paikra is permitted for withdrawal of sum of Rs. 4,00,000/- (Rupees four lakhs only) out of the said amount of Rs. 10,21,900/- (Rupees ten lakhs twenty one thousand and nine hundred only) deposited in his name in the Nationalized bank (United Bank of India). No order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE

Nikita