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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 06 of 2017**

1. Smt. Santoshi Yadava Wd/o Late Naresh Yadava, aged about 31 years, R/o. Village Parasbod, Tahsil Saja, District Durg (Chhattisgarh)
2. Kumari Purnima Yadava D/o Late Naresh Yadava, aged about 13 years, Minor Through Mother Natural Guardian, R/o Village Parasbod, Tahsil Saja, District Durg Chhattisgarh
3. Ku. Uma Yadava, D/o Late Naresh Yadava, aged about 10 years, Minor Through Mother Natural Guardian, R/o Village Parasbod, Tahsil Saja, District Durg Chhattisgarh
4. Dani Yadava, S/o Late Naresh Yadava, aged about 7 years, Minor Through Mother Natural Guardian, R/o Village Parasbod, Tahsil Saja, District Durg Chhattisgarh

---- Petitioners

Versus

1. Smt. Sharda Jain W/o Jai Chand Jain, R/o. Village Parasbod, Tahsil Saja, District Durg (Chhattisgarh) (Owner of Offending Vehicle No. CG-04- G-8370)
2. Branch Manager, National Insurance Company Limited, Branch No 1, Bhutani Complex, G.E. Road, Bhilai, District Durg Chhattisgarh
3. Smt. Savana Yadav, Wd/o Late Nanokoo Yadav, aged about 65 years, R/o Villae Parasbod, Tahsil Saja, District Durg, Chhattisgarh
4. Hon'ble Commissioner Employees Compensation Act-cum-Labour Court, Durg, District Durg, Chhattisgarh

---- Respondents

For Petitioners : Shri Uttam Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****10/01/2017**

The present petition under Section 226 of the Constitution of India has been filed assailing the order dated 14.10.2016 passed by the Commissioner for Employees Compensation Act – cum - Labour Court, Durg in Case No. 45/E.C.Act/2016 (Misc.)

2. The case in brief is that the husband of petitioner no.1 namely Naresh Yadav met with an accident on 11.09.2008. The employer had

deposited an amount of Rs. 4,11,960/- as compensation under Workmen's Compensation Act in the name of the dependants of the said deceased employee i.e. petitioner no.1 is wife, petitioners 2 to 4 are children and respondent no.3 is mother of the deceased employee. The said amount of compensation which was deposited before the Labour Court was released to the petitioners as well as respondent no.3 in accordance with the distribution shown in the order of the Commissioner dated 12.01.2012. All the money was deposited in the bank by way of fixed deposit as has been specified by the Commissioner for Workmen's Compensation, Durg.

3. It is case of the petitioners now that by efflux of time because of the necessity which arose in the family of the petitioners, one of the grounds being that respondent no.3, the mother of the deceased having chased the petitioners out of their house, it became necessary for the petitioners to look for some property. It is said that the petitioner no.1 found a suitable land for which an agreement for sale has been executed vide agreement (Ekrarnama) dated 16.05.2016 which is Annexure P-3 filed along with this petition. As per the said sale deed, the property would be purchased by petitioner no.1 from the seller Ramadhar S/o Chintaram. It is also reflected from the agreement to sale that the total sale consideration for the said property is rupees 2.5 lakhs of which an amount of Rs.25,000/- has been paid as an advance and the remaining amount has to be paid at the time of registration of the property.

4. An application was moved by the petitioners jointly before the Court of the Commissioner for Employees compensation Act i.e. the Labour Court, Durg seeking for releasing of the money which is deposited in the name of the petitioners in the bank so that the property could be purchased. However the said application was rejected by the Commissioner vide impugned order dated 14.10.2016. The ground for rejection of the said application by the Commissioner was that it is in the

interest of the petitioners if the FDR is maintained in the bank, they can avail the benefit of interest of the said amount for their maintenance.

5. Counsel for the petitioners at this juncture submits that the petitioners have been chased away by respondent no.3 from their property which made it necessary for the petitioners to have a shelter of their own and it is with this intention the sale agreement has been made. He submits that in any case, purchase of the said property would fetch more return as compared to the return which is received from the bank and therefore the purchase of property would be a better investment for future from which she can get much more than what she is getting as interest. Lastly it is contended by the counsel for the petitioners that the property which the petitioner no.1 intends to purchase can be purchased jointly in the name of the children also so that ultimately the benefit of the said property can be enjoyed by the children of the petitioner no.1 and that there is no possibility of the petitioner no.1 alienating the property de hors the interest of the petitioners 2 to 4.

6. This proposition of the counsel for the petitioners seems to be a fair proposition and this Court is therefore inclined to accept the same. Accordingly, the petition is allowed. It is directed that the respondent no.4 shall pass an appropriate order permitting petitioner no.1 to break the fixed deposits that are lying in her name which is approximately rupees 1.5 lakhs. The balance amount required for purchase of the said property is Rs.75, 000/-. Therefore, it is ordered that the respondent no.4 shall also permit to break the fixed deposits that are lying in the name of petitioners 2 to 4 for an amount of Rs.25,000/- each and the balance amount shall again be put in a fixed deposit. It is further directed that the said amount would be released to petitioner no.1 with a condition as made by the counsel for the petitioners that the said property would be purchased

jointly in the name of all the petitioners in the larger interest of all the petitioners.

7. With the aforesaid observations, the present petition stands allowed and disposed of.

**Sd/-
(P. Sam Koshy)
JUDGE**

Bhola