

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 104 of 2018

The Oriental Insurance Company Branch Office Bilaspur, Through
Its Divisional Manager Oriental Insurance Company Ltd. Bilaspur
Rama Trade Center Near Old Bus Stand Biaspur (Chhattisgarh)

---- Petitioner

Versus

1. Mohd. Aslam S/o Noorhasan Aged About 35 Years Cast
Musalman R/o Behind Gurudwara Pendra, P.O. And Tehsil Pendra
P.S. Pendra, District Bilaspur (Chhattisgarh)
2. Jagannath Pandey S/o Kartikram Pandey Aged About 25 Years
Cast Brahman, R/o Junapara Kargiroad, P.S. Kota, Tehsil Kota
District Bilaspur (Chhattisgarh)
3. Anurag Soni S/o Keshri Prasad Soni, Aged About 42 Years Cast
Sonar R/o Jhabar P.S. And Tehsil Pendra District Bilaspur
(Chhattisgarh), District : Bilaspur, Chhattisgarh

-- Respondents

For petitioner – Shri Ghanshyam Patel, Advocate appears on behalf of
Shri Abhishek Sinha, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

8/02/2018

Heard.

1. Learned counsel for the petitioner submits that right to file written statement was closed on 11/09/2017 and subsequently on 20/11/2017 application to permit the petitioner to file written statement was also rejected. He submits that cover note filed was manual cover note as such when it was verified it took considerable time and ultimately it was found to be fake, therefore pleading could not be placed before the court. He submits that one opportunity may be given as according to the instruction case is fixed for 15/02/2018 before the court below for non-applicant's evidence and submit that the insurance company may be allowed to file written statement and if evidence of the other witness of the non-applicant are required, they will cross examine them.

2. Perused the entire order sheet. Considering the submission made, in order to advance opportunity of hearing on merits, one opportunity is granted to the non-applicant/insurance company to file written statement as statement has been made at bar that case is fixed for 15/02/2018 for non-applicant's evidence. Insurance company shall file their written statement subject to cost of Rs.5000/- which would be payable to the claimant and shall be entitled to cross examine the witness, if any, that of the non-applicant if are produced. It is further made clear that evidence recorded prior to the date i.e. mainly of the claimant, trial would not be conducted *denovo* as rights of Insurance Company would be subject to section 149 of the Motor Vehicles Act, 1988. Accordingly, order dated 11/09/2017 and 20/11/2017 are set aside.

3. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE