

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 443 of 2016**

1. Rajendra Tiwari, S/o Shri Harprasad Tiwari, aged about 36 years, (**at present 45 years**), R/o Village – Bodsara, Police Station & Tahsil- Janjgir, Civil & Revenue District – Janjgir-Champa (C.G.)
2. Ku. Preeti Tiwari, D/o Shri Rajendra Tiwari, aged about 15 years, (Minor) through her Natural Guardian Father Shri Rajendra Tiwari, R/o Village- Bodsara, Police Station & Tahsil – Janjgir, Civil & Revenue District – Janjgir-Champa (C.G.)

**----Petitioners/claimants.****Versus**

1. Manjhala @ Krishna Kumar Sahu, S/o Shri Gopi Chand Sahu, aged about 26 years (at present 35 years), R/o Near Leyance Chawk-Champa, Police Station & Tahsil- Champa, Civil & Revenue District – Janjgir-Champa (C.G.)

**(Driver of the offending Vehicle Motor Cycle Bajaj Caliber No. C.G.11 ZE 5842)**

2. Mahesh Shriwas, S/o Shri Kishori Lal Shriwas, aged about 34 years (at present 43 years), R/o Station Road Champa, Police Station & Tahsil – Champa, Civil & Revenue District- Janjgir-Champa (C.G.)

**(Owner of the offending Vehicle Motor Cycle Bajaj Caliber No. C.G.11 ZE 5842)****---- Respondents**

|                 |                                     |
|-----------------|-------------------------------------|
| For Petitioners | : Shri Paras Mani Shriwas Advocate. |
| For Respondents | : None.                             |

**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****22/11/2018**

(1) By the impugned orders dated 05.01.2016 & 14.03.2016, claimants' application for execution of award has been dismissed by the Motor Accident Claims Tribunal, Janjgir on the ground of non-compliance of the provisions contained in Order 9 Rule 2 of the Code of Civil Procedure, against which instant writ petition has been filed questioning that order.

(2) I have heard learned counsel appearing for the petitioner.

(3) Since the claimants' application seeking compensation has been decided by the Second Additional Motor Accident Claims Tribunal, Janjgir in Claim Case No. 29/2007 way back on 28.11.2017, therefore, the Claims Tribunal ought to have looked into the application for execution of award carefully as all the provisions of Code of Civil Procedure are not applicable to the Claims Tribunal.

(4) In that view of the matter, the writ petition is allowed. The impugned order is set aside. It is held that sufficient cause has been shown for non-appearance on 14.3.2016 and thus the application for execution of award is restored to its original file for hearing and disposal in accordance with law. Claims Tribunal is directed to decide the application for execution of award expeditiously preferably within a period of three months after service of notice to the non-applicants.

(5) Copy of this order be sent to the concerned Motor Accident Claims Tribunal for compliance and needful.

Sd/-

(Sanjay K. Agrawal)  
Judge

D/-

