

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.147 of 2018**

1. Ishant Kumar Garhewal, aged about 23 years, son of Dhani Ram Garhewal,
2. Snigdha Garhewal, aged about 20 years, D/o. Dhani Ram Garhewal,
3. Ku. Arpana Garhewal, aged about 15 years, D/o. Dhani Ram Garhewal, Minor through Petitioner No.4.
4. Dhani Ram Garhewal, aged about 48 years, son of Sukhram Garhewal,

All R/o. Kabir Nagar, Ram Nagar, P.S. Gudhiyari, District Raipur (CG)

----Appellants

Versus

1. Jitendra Bagmar, aged about 26 years, son of Keshav Bagmar, R/o. Dhimarapara, Kota, P.S. Saraswati Nagar, Raipur (CG)
2. Amir Ali Farishta, son of Raza Ali Farishta, R/o. Farista House, Katora Talab, Raipur, District Raipur (CG)
3. The New India Insurance Company Through : The Divisional Manager, Division Office, Kachhari Chowk, Raipur, District Raipur (CG)
4. Naresh Khatri son of Mohan Lal Khatri, R/o. House No.327-A, Samta Colony, Raipur, Distt. Raipur (CG)

---- Respondents

For Petitioners : Mr.Shikhar Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

03/12/2018

1. The petitioners' made an application before the 7th Additional Motor Accident Claim Tribunal, Raipur (hereinafter called as "the Claims Tribunal") for disbursement of the amount of award, which has been deposited by the Insurance Company in fixed deposit. The Claims

Tribunal rejected that application on the ground that the application filed by respondent No.4-Naresh Khatri (owner of the offending vehicle) under Order 9 Rule 13 of the CPC is pending consideration.

2. I have heard learned counsel for the petitioners and perused the impugned order.
3. Pendency of the application filed by other side under Order 9 Rule 13 of the CPC cannot be the ground not to consider the application on merits. The Claims Tribunal ought to have considered and decided the application on merits instead of rejecting the application on the ground that the application filed by respondent No.4-Naresh Khatri (owner of the offending vehicle) under Order 9 Rule 13 of the CPC is pending consideration.
4. In view of above, the impugned order is set aside. The matter is remitted to the Claims Tribunal for considering and deciding the application for disbursement of the amount of award afresh in accordance with law on merits expeditiously.
5. The writ petition is allowed to the extent indicated hereinabove. A copy of this order be sent to the concerned Claims Tribunal. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge