

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 1010 of 2015**

1. Smt. Urmila Shravan, aged about 36 years, Wd/o late Dr. Bhupendra Shravan
2. Sukaloo Ram Shravan, aged about 68 years, S/o Late Shri Sukaloo Ram Shravan
3. Smt. Bhagwati Shravan, aged about 59 years, W/o. Shri Sukaloo Ram Shravan,
4. Ku. Sanu, aged about 6 years, D/o Dr. Bhupendra Shravan
5. Manu Gaurav, aged about 5 years, Wd/o. Late Dr. Bhupendra Shravan

Petitioners No. 4 & 5 minor through mother and natural guardian, mother appellant No.1.

All Resident of Village Chitoud, P.O. & P.S. Gurur, Distt. Durg (C.G.)

----Petitioners

Versus

1. M/s. Chandra Travels, Through Sanjay Shukla, R/o. Ram Sagarpara, P.O. & Distt. Dhamtari, (C.G.)
2. Gopal Singh, aged about 32 years, S/o. Shri Rajaram, Through M/s. Chandra Travels, Ram Sagarpara, P.O. & Distt. Dhamtari (C.G.)
3. M/s. New India Assurance Co. Durg, P.O. & Distt. Durg (C.G.)

---- Respondents.

For Petitioners	: Shri Uttam Pandey, Advocate.
For Respondents 1 & 2	: None
For Respondent No. 3	: Shri Dashrath Gupta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/09/2018

(1) In a claim petition filed by the petitioner/claimants, owner, driver and Insurance Company were impleaded as party non-applicants. In the said application, by order dated 15.1.1998, the name of Insurance Company was directed to be deleted finding that the offending vehicle was not insured with the Insurance Company at the time of accident.

That order was not challenged further. But my mistake, counsel for the petitioners could not delete the name of Insurance Company from the cause title of memo of claim petition and on 22.12.1998, final award was passed by the Claims Tribunal, in which, Insurance Company was also made liable for payment of compensation to the claimants.

(2) When the execution petition was filed by the petitioners/claimants for execution of award, the Insurance Company raised an objection that he is not liable to pay compensation as the offending vehicle was not insured with the Insurance Company at the time of accident. By the impugned order dated 14.11.2006, the Executing Court has held that since the name of Insurance Company has already been directed to be deleted from the cause title of memo of claim petition, the amount of compensation be recovered from the owner and driver of the offending vehicle, against which instant writ petition under Article 227 of the Constitution of India has been filed questioning the same.

(3) Learned counsel for the parties do not dispute the fact that in the claim petition, name of Insurance Company has already been directed to be deleted by order dated 15.1.1998, as such the Insurance Company is not liable to pay compensation to the claimants. Since the name of Insurance Company has already been directed to be deleted from the cause title of memo of claim petition, impugned order cannot be said to be contrary to law, however, the Claims Tribunal is directed to take effective & coercive steps for recovery of amount of compensation as awarded by the Tribunal on 22.12.1998 from the driver and owner of the offending vehicle as no amount of compensation has been paid to the claimants till date.

(4) In view of the above analysis, the Claims Tribunal is directed to take effective steps for recovery of amount of compensation from the driver and owner of the vehicle and

decide the execution case No. 15/96 expeditiously preferably within a period of three months from the date of receipt of certified copy of this order and the information to this effect be sent to this Court that the award passed by the Claims Tribunal dated 22.12.1998 has been complied with.

- (5) Copy of the order be sent to the District Judge, Durg for needful compliance.
- (6) Record of the courts below be sent back forthwith.
- (7) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

