

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 737 of 2017**

- Bajaj Allianz General Insurance Company Limited 3rd Floor, C/o Guru Kripa Tower Beside I C I C I Bank, Vyapar Vihar, Bilaspur, Chhattisgarh. (Insurer) **---- Applicant/Appellant**

Versus

1. Geeta Nag D/o Premsay Nag Aged About 18 Years R/o Village Khadeama, Tahsil- Lelunga, District Raigarh, Chhattisgarh.
2. Akshay Kumar Nag, S/o Premsay Nag, Aged About 22 Years Driver, Primary Health Center Kansabel, Tahsil Kansabel, District Jashpur, Chhattisgarh.,
3. Prem Sai Nag S/o Late Jaggu Nag, Aged About 44 Years R/o Village Khadeama, Tahsil- Lelunga, District Raigarh, Chhattisgarh. Claimants, District : Raigarh, Chhattisgarh
4. Lalita Nag D/o Pemsay Nag Aged About 20 Years R/o Village Khadeama, Tahsil- Lelunga, District Raigarh, Chhattisgarh. Claimants, District : Raigarh, Chhattisgarh
5. Sangeeta Nag Minor D/o Prem Sai Nag Aged About 16 Years Respondent No. 5 Minor Represented Through Respondent No. 3 Prem Sai, R/o Village Khadeama, Tahsil- Lelunga, District Raigarh, Chhattisgarh. Claimants, (Claimants)
6. Masat Ram Chouhan S/o Usat Ram Chouhan Owner, R/o Village Khadeama, Tahsil Lelunga, District Raigarh, Chhattisgarh. (Owner)
7. Pitamber Chouhan S/o Masat Ram Chouhan Aged About 22 Years Driver, R/o Village Khadeama, Tahsil- Lelunga, District Raigarh, Chhattisgarh. (Driver) **---- Respondents**

For Petitioner	: Shri Sachin Singh Rajput, Advocate
For Respondent No.2	: Notice upon him has already been dispensed with vide order dated 17.08.2018
For Respondents No.1, 3 to 5	: None appears, though served
For Respondents No. 6 & 7	: Shri Akhand Pratap, Advocate

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****01.05.2019**

1. Heard on I.A.No.01/2017, an application for condonation of delay of 152 days in filing the present M.C.C.

2. Shri Akhand Pratap, counsel for respondents No. 6 & 7 has objected the same by submitting that day to day delay has not been explained properly.
3. On due consideration of the submissions and by considering the reasons assigned in the application (I.A.No.01/2017), I am inclined to allow the same.
4. Accordingly, the delay in filing the present MCC for restoration is condoned.
5. Also heard on M.C.C. This petition has been filed for restoration of Misc. Appeal (C) No.321/2017, which was dismissed by virtue of peremptory order dated 09.03.2017.
6. It is submitted by Shri Rajput, learned counsel for the applicant, that one of the defaults regarding deposition of statutory amount of Rs.25,000/- has been cured on 17.03.2017. However, for removal of other defaults with regard to filing of copy of order passed under Section 170 of the Motor Vehicles Act, 1988 (for short, the Act of 1988), an application was made for exemption. However, by the time when the said application was made, the period as provided by virtue of peremptory order has already expired. He, therefore, submitted that the said application could not have been considered. He submitted further that during the pendency of this petition, a photocopy of the order dated 30.07.2016 passed under Section 170 of the Act of 1988 has also been submitted by way of covering memo dated 18.03.2019.
7. Having considered the facts and circumstances of the case, considering further the subsequent filing of photocopy of the order dated 30.07.2016 passed under Section 170 of the Act of 1988, I am inclined to allow this petition.
8. The petition is accordingly allowed and the M.A.(C) No.321/2017, which was dismissed by virtue of peremptory order dated 09.03.2017 is restored to its original number. No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge