

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 387 of 2020

Anwar Ali S/o Farukh Ali (Musalman) Aged About 50 Years R/o Aabha Kirana Store, Shubhash Nagar, Mohdapara, Raipur, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. Shriram Yadav S/o Mohan Yadav Aged About 47 Years R/o Laxmanpur (Bhatapara), Police Station And Tehsil Chuikhadan, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
2. Raju @ Rajesh Ahirwar S/o Lallu Ahirwar Aged About 24 Years R/o Malka (Bari) Post Ujara Police Station Gadimlehara, Tehsil And District Chatarpur, Madhya Pradesh., District : Chhatarpur, Madhya Pradesh
3. New India Insurance Corporation Limited Branch Office L.I.C. Building, 1st Floor Pandri Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner

: Shri Badruddin Khan, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-07-2020

1. Heard.
2. This petition has been brought under Article 227 of the Constitution of India being aggrieved by the order dated 17.2.2020 passed by the Learned Additional Motor Accident Claims Tribunal, Khairagarh, District Rajnandgaon in Claim Case No. 54 of 2016, by which the application under Order IX Rule 13 of the C.P.C. of the petitioner was dismissed only for the reason that the petitioner had failed to make payment of the process fee as ordered by the Court.
3. Learned counsel appearing for the petitioner submits that respondent No.2 – Raju @ Rajesh Ahirwar was present on 3.8.2019 which is although not mentioned in the order-sheet but his signature is affixed in the side column of the order-sheet which shows that respondent No.2

had appeared and then he has deliberately chosen not to give appearance in the proceeding. One opportunity may be provided to the petitioner for which it is prayed that the impugned order be set aside and the application under Order IX rule 13 of the CPC filed by the petitioner be restored.

4. Considered the submissions and also perused the copy of the order-sheets filed alongwith the petition. It is found that the signature appears to be present is of respondent No.2 – Raju @ Rajesh Ahirwar in the order dated 3.8.2019, however, it is not mentioned in the order itself.
5. After due consideration, I feel inclined to allow this petition without noticing to the respondents' side and the impugned order dated 17.2.2020 is set aside. The application filed by the petitioner under Order IX Rule 13 of the C.P.C. is hereby restored. It is directed that the petitioner be given an opportunity for making payment of the process fee and then the application under Order IX Rule 13 of the C.P.C. be disposed off in accordance with law.
6. Accordingly, the petition is disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge