NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 19 of 2021

- Branch Manager, IFFCO TOKIO General Insurance Co. Limited, 205, 2nd Floor, MM Silver Plaza, Udyog Bhawan, Near Mining Office, Ring Road No. 1, Raipur, Chhattisgarh.

---- Applicant/Appellant

Versus

1. Joshef Kerketta, S/o Shri Tilan Kerketta, Aged About 47 Years
2. Kanchan Kerketta, D/o Shri Joshef Kerketta, Aged About 18 Years
3. Tripti Kerketta, D/o Shri Joshef Kerketta, Aged About 12 Years

   (Claimants)

   Respondent No.1 to 3 R/o Village Ragunathpur, P.S. & Tahsil Lundra, District- Surguja (C.G.)

4. Chotan Kumar Gupta, S/o Krishn Kumar Gupta, Aged About 38 Years, R/o Village- Ragunathpur, P.S. and Tahsil- Lundra, District- Surguja, R/o Village- Ragunathpur, P.S. and Tahsil- Lundra, District- Surguja, Chhattisgarh.

   (Driver-cum-owner)

---- Respondents

For Applicant : Shri P.R. Patankar, Advocate

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

02.03.2021

1. This petition has been filed for review of the judgment dated 26.10.2018 passed by this Court in MAC No. 1679 of 2016 whereby the appeal filed by the applicant herein was dismissed being without any substance.

2. Heard on I.A. No.01, application for condonation of delay of 776 days in filing the present Review Petition.

3. On due consideration, considering the reasons assigned in the above application which is supported by an affidavit, the application is allowed and delay in filing the Review Petition is hereby condoned.

4. Also heard on admission.

5. Learned counsel for the appellant submits that while passing judgment dated 26.10.2018 this Court failed to consider that the vehicle in question was being run on hire and reward basis and no extra premium was paid for covering the risk of occupants of the vehicle. Being so, there was breach of policy conditions and as such the insurance company was to be exonerated of its liability.

6. This Court while passing the judgement dated 26.10.2018 under review, duly considered the aforesaid submissions on behalf of the applicant insurance company regarding breach of policy conditions and having found no evidence whatsoever adduced by the insurance company to substantiate its plea regarding vehicle in question being used for hire and reward basis, came to the conclusion that the Tribunal has rightly fastened the liability on the insurance company of paying compensation to the claimants.

7. Under Order 47 Rule -1 read with Section 114 of CPC, there is limited scope for considering review petition. Three main grounds are there for review of the order/judgment which are as under:
   (I) discovery of new and important fact or evidence, or
   (ii) mistake or error apparent on the face of record; or
   (iii) any other sufficient reasons

8. In the present case, no new important fact or evidence has been brought on record by the applicant before this Court. Further, the applicant could not point out any mistake or error apparent on

the face of record in the judgment under review. On due consideration, this Court also does not find any other good reason to review the judgment dated 26.10.2018 passed in MAC No. 1679 of 2016.

9. In the results, the review petition being without any substance is liable to be dismissed at the admission stage itself and is accordingly dismissed as such.

Sd/-

(Gautam Chourdiya)
Judge

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