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HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 391 of 2021

- Cholamandlam Ms General Insurance Company Ltd Through Competent Officer Cholamandlam Ms General Insurance Company Ltd., Hinduja Complex, Paras Nagar Chowk, Near Railway Line, Devendra Nagar Road, Raipur Chhattisgarh, Through Assistant Manager (Legal) Cholamandlam Ms General Insurance Company , 2nd Floor Simaran Tower In Front Of Lic Building, Pandri Raipur Chhattisgarh. -- Applicant

Versus

1. Domar Sahu S/o Jagdish Sahu Aged About 48 Years R/o Near Dau Bada, Ural, Police Station Urla District Raipur Chhattisgarh.
2. Smt. Rekha Sahu W/o Domar Sahu Aged About 45 Years R/o Near Dau Bada, Ural, Police Station Urla District Raipur Chhattisgarh.
3. Prahlad Sahu S/o Domar Sahu Aged About 22 Years R/o Near Dau Bada, Ural, Police Station Urla District Raipur Chhattisgarh.
4. Devendra Singh Rajput S/o Indrabhan Singh Rajput R/o Bajrang Nagar Birgaon, Police Station Urla, District Raipur Chhattisgarh. (Driver) (Vehicle No. Cg 04 Jc 7653)
5. Paramjeet Kour Gil W/o Ranjeet Singh Gil R/o Qu. No. C.H. 449, Slays 01 Housing Board Colony, Tatibandh, Raipur , The And District Raipur Chhattisgarh. (Owner) (Vehicle No. Cg 04 Jc 7653)
6. Jaidev Rai S/o Virendra Dev Rai @ Biren R/o Malkangiri, M.V. - 19, Police Station Malkangiri (Orissa) (Driver) (Vehicle No.CG 17 KJ 7767)
7. Rajkumar Kundu S/o Radheshyam Kundu R/o Qu. No. 122 Borgaon, Tehsil Farasgaon District Kondagaon Chhattisgarh. (Owner) ----Non-Applicant

For Applicant:	: Shri Aditya Pandey, Advocate.
For Non-Applicant:	: None.

Single Bench:Hon'ble Shri Sanjay S. Agrawal, J
Order On Board

09.08.2021

1. Heard on admission.
2. The instant M.C.C. has been filed for restoration of M.A.C. No.1156 of 2020, which was dismissed in default for non-compliance of the peremptory order dated 03.12.2020.

3. According to the Petitioner, the matter was listed on the said date, i.e., 03.12.2020 for orders on default as the petitioner has failed to furnish the certified copy of the award impugned and has also failed to furnish the deposit receipt in compliance of Section 173 (2) of the Motor Vehicles Act, 1988 and after due consideration, this Court has pleased to grant 4 weeks' time to remove the said defaults, with a condition that in case of non-compliance of the same within the said stipulated time, the appeal shall stand automatically dismissed without further reference to the Bench. It is contended further that after passing of the said order, the same has been supplied to the petitioner/company and requested to furnish the certified copy of the award, who in turn, instructed its lower Court's counsel for obtaining the certified copy of the award at the earliest.

4. It is contended further that due to pandemic situation of novel coronavirus, the situation was not normalized, therefore, the application for obtaining the certified copy of the award dated 19.12.2020 could not be applied within time by the counsel, though it was filed on 20.01.2021 and in pursuance thereof, the certified copy of the award impugned was delivered on 25.01.2021 to the counsel and thereafter, it was sent to the officer of the petitioner's company. However, by the time, the time as provided by this Court vide order dated 03.12.2020 has expired, and therefore, the said appeal has been dismissed due to non compliance of the said order dated 03.12.2020. It is contended further that there was no malafide intention behind it and the alleged default and/or delay has been occurred due to the said reason, and prays for restoration of the said appeal to its original number. In support, an affidavit has been filed along with the said application.

5. On due consideration and for the reasons assigned in the application

for restoration of the said appeal, which is duly supported by an affidavit, I am inclined to allow the same.

6. Accordingly, the instant M.C.C is allowed and M.A.C. No.1156 of 2020 is restored to its original number, subject to cost of Rs.1,500/- payable to the High Court Legal Services Committee through its Secretary within a period of 3 weeks' from today.

7. Learned counsel for the Petitioner is permitted to remove the default(s), as pointed out by the Registry in the said M.A.C. No.1156 of 2020, within a period of 3 weeks' from today.

8. With the aforesaid observation, the petition is accordingly disposed of.

Sd/-
(Sanjay S. Agrawal)
JUDGE

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