CGHC010140532026 2026:CGHC:46097

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WP227 No. 564 of 2026**

**1 -** Cholamandalam M.S. General Insurance Company Limited Hinduja Complex, Paras Nagar Chowk, Near Railway Line, Devendranagar Marg, Raipur (C.G.)

**... Petitioner(s)**

**versus**

**1 -** Smt. Sippi Jha W/o Late Shri Pankaj Kumar Jha Aged About 38 Years R/o Shri Ramnagar Near Railway Station Gate, Thana- Khamhardih, Tehsil And Dist.- Raipur (C.G.) (Wife Of The Deceased)

**2 -** Aadya Jha D/o Late Shri Pankaj Kumar Jha Aged About 14 Years R/o Shri Ramnagar Near Railway Station Gate, Thana- Khamhardih, Tehsil And Dist.- Raipur (C.G.) Through Legal Representative- Smt. Sippi Jha (Mother) (Minor Daughter Of The Deceased)

**3 -** Divya Jha D/o Late Shri Pankaj Kumar Jha Aged About 13 Years R/o Shri Ramnagar Near Railway Station Gate, Thana- Khamhardih, Tehsil And Dist.- Raipur (C.G.) Through Legal Representative- Smt. Sippi Jha (Mother) (Minor Daughter Of The Deceased)

**4 -** Jalaj Jha S/o Late Shri Pankaj Kumar Jha Aged About 38 Years R/o Shri Ramnagar Near Railway Station Gate, Thana- Khamhardih, Tehsil And Dist.- Raipur (C.G.) Through Legal Representative- Smt. Sippi Jha (Mother) (Minor Son Of The Deceased)

**5 -** Smt. Manjula Devi W/o Shri Sharda Nand Jha Aged About 67 Years R/o Shri Ramnagar Near Railway Station Gate, Thana- Khamhardih, Tehsil And Dist.- Raipur (C.G.) (Mother Of The Deceased)

**6 -** Sharda Nand Jha S/o Late Satya Narayan Jha Aged About 68 Years R/o Shri Ramnagar Near Railway Station Gate, Thana- Khamhardih, Tehsil And Dist.- Raipur (C.G.) (Father Of The Deceased)

**7 -** Ram Kishore Jha R/o House No. 29/121, Road No. 6, Shriram Nagar, Near Tv Tower, Raipur, Dist.- Raipur (C.G.) (Registered Owner Of Vehicle- Cg-04-Md-9531)

**8 -** The Oriental Insurance Company Ltd. Through Its Manager The Oriental Insurance Co. Ltd. Pk Plaza, Pachpedi Naka, Ring Road No. 1, Raipur, Dist.- Raipur (C.G.) (Insurance Company Of Car- Cg-04-Md-9531)

**9 -** Ganesh Singh S/o Lal Dev Singh Aged About 43 Years R/o Village Selari, P.S. Tarashi, Dist.- Palamu, Jharkhand

**10 -** Ajit Kumar Singh S/o Kishun Singh R/o Through Rajendra Prasad Gupta, Ward- 15, Ramanujganj, Dist.- Balrampur (C.G.)

**... Respondent(s)**

(Cause title taken from CIS)

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| For Petitioner(s) | **:** | Mr. Vaibhav Shukla, Advocate along with Ms. Shrejal Gupta, Advocate |
| For Respondent No. 8 | **:** | Mr. Raj Awasthi, Advocate |

**Hon'ble Shri Justice Ravindra Kumar Agrawal, J.**

**Order on board**

**30.10.2026.**

**1.** The present writ petition has been filed by the petitioner under Article 227 of the Constitution of India against the impugned order dated 16.10.2025 passed by learned 8th Additional Motor Accident Claims Tribunal, Raipur in Claim Case No. 393/2022 whereby the right to call the investigating officer of the Crime No. 43/2022 registered at Police Station- Bango, District- Korba has been forfeited on the ground that the non-applicant No. 5 has not paid the process fee for calling of the said witness.

**2.** Learned Counsel for the petitioner would submit that the petitioner is the non-applicant No. 5 before the learned Claims Tribunal where the respondent No. 1 to 6 are prosecuting a claim case for compensation of Rs. 56,09,00,000/- on account of death of Late Pankaj Kumar Jha. During the proceeding, the non-applicant No. 5 had filed an application under Rule 231 of Chhattisgarh Motor Vehicles Rule for calling of the investigating officer of Crime No. 43/2022 registered at Police Station-Bango, District- Korba along with the case diary of said crime number as a witness in the case. Though, vide order dated 08.11.2024, the learned Claims Tribunal has allowed the application and permitted the non-applicant No. 5 to summon the witness of the investigating officer of Crime No. 43/2022 and the petitioner paid the process fee regularly for summoning the said witness, however, the summons could not be served upon him and he could not appeared. Lastly, he was again ordered to the summoned after payment of process fee by the non-applicant No. 5 but due to clerical mistake, the process fee could not be paid for the said witness ant in absence thereof, the learned Claims Tribunal has forfeited the right to examine the investigating officer of the said crime number and proceeded for recording evidence of the other witness of the non-applicant. He would further submit that the said witness is necessary for just decision of the case to be examined on the material point of the accident that allegedly occurred on 12.03.2022. Only for one default in payment of process fee due to clerical mistake, the non-applicant No. 5 could not be penalized by forfeiting his right to examine the said witness in their support. Therefore, the impugned order may be set aside and the petitioner may be permitted to examine

the investigating officer of Crime No. 43/2022 of P.S. Bango, District-Korba.

**3.** On the other hand, learned counsel for Respondent No. 8 opposes and would submit that learned Claims Tribunal has rightly forfeited the right to produce the witness in default of the petitioner and the impugned order is not required any interference.

**4.** I have heard learned counsel for the parties and perused the document annexed with the petition.

**5.** In the present case, although, the petitioner has not annexed any copy of the plaint or other document except the order-sheets of the learned Claims Tribunal and application under Rule 231 of Chhattisgarh Motor Vehicle Rules, 1994. However, from the order-sheets annexed with the petition filed along with covering memo dated 15.06.2026, it transpires that vide order dated 08.11.2024, the petitioner was permitted to produce his witness who is the investigating officer of Cirme No. 43/2022, registered at Police Station- Bango, District- Korba and from the further order-sheets it transpires that despite having payment of process fee for the said witness, the summons could not be served and he could not be examined before the learned Claims Tribunal. However, on 16.10.2025, when the matter was taken up for hearing, the learned Claims Tribunal as considered that the petitioner has not paid the process fee for calling of their witnesses and his right to examine the investigating officer of the said crime number has been forfeited.

**6.** It is well settled that the right of a party to lead evidence is an important facet of the right to effectively prosecute or defend a civil proceeding, and such right ought not to be denied in a manner that results in shutting out the party from establishing its case on merits, unless the

conduct of the party is such as to justify such a consequence. Though the Court has ample power to regulate proceedings and decline repeated or unjustified adjournments, the power to forfeit the right to lead evidence must be exercised cautiously and in furtherance of the ultimate object of adjudication on merits. In the present case, notwithstanding the repeated adjournments on the ground of non-service of summons to the witness for whom th eprocess fees were paid time to time, the negligance cannot be imputed on the part of non-applicant No. 5 for one default of payment of process fee for the witness, forfeiture of his right to examine him would substantially impair his ability to prove its case, this Court is of the considered view that the ends of justice would be served by affording him one opportunity to lead its evidence.

**7.** After having gone through the material available in the present writ petition as well as order sheets, this Court is of the considered opinion that one more opportunity is to be granted to the petitioner to keep his witnesses present and he may be permitted to pay the process fee for the said witness. Accordingly, the impugned order dated 16.10.2025 with respect to the forfeiting the right of non-applicant no. 5 to produce the head-constable namely Uday Kumar Singh who registered the FIR of Crime No. 43/2022 at P.S. Bango, District- Korba and permitted him to call the Head Constable Uday Kumar Singh as the witness in their support in pursuant to the order dated 08.11.2024 passed by learned Claims Tribunal. The learned Claims Tribunal is directed to fix a date for recording evidence of the said witness of non-applicant No. 5 and the petitioner is also directed to pay the requisite process fee under the law

for calling of the said witness as per the date fixed by the learned Claims Tribunal.

**8.** The petitioner is also at liberty to take Dasti Summons for the said witness in due process.

**9.** With the aforesaid observation, the present writ petition is **allowed** to the extent indicated hereinabove.

Sd/-

(Ravindra Kumar Agrawal)
**Judge**

Sagrika