

(2019) 10 CHH CK 0033
In the Chhattisgarh High Court
Case No : WP227 No. 747 Of 2019

Jyoti Gendre And Ors

APPELLANT

Vs

Radheshyam Singh And Ors

RESPONDENT

Date of Decision : 04-10-2019

Acts Referred:

Code Of Civil Procedure 1908 — Section 151
Constitution Of India, 1950 — Article 227

Citation : (2019) 10 CHH CK 0033

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Rajkumar Pali

Final Decision : Disposed Of

Judgement

Sanjay K. Agrawal, J

1. Petitioners herein are claimants in whose favour award dated 22/04/2014 has been passed by learned Claims Tribunal for a sum of ₹ 9,14,600/-

which is payable by respondent No. 3 i.e. Insurance Company who will recover the amount from respondents No. 1 and 2 i.e. driver and owner of the

vehicle. Learned Claims Tribunal further directed that respondents No. 1 and 2 herein i.e. driver and owner would furnish security for the payment of

the compensation amount to the Insurance Company. In furtherance of the awarded amount, a sum of ₹ 10,15,631/- has already been deposited by

the Insurance Company but it has not yet been disbursed to the claimants for want of security which has not been furnished by the driver and owner

as directed by learned Claims Tribunal.

2. Petitioners filed an application under Section 151 of the CPC for releasing of the compensation amount, but learned Claims Tribunal rejected the

said application by order impugned dated 13/11/2018 against which this writ petition under Article 227 of the Constitution of India has been preferred by them.

3. Mr. Rajkumar Pali, learned counsel for the petitioners would submit that the Claims Tribunal is absolutely unjustified in rejecting the application filed

by the petitioners as their near relative Vishnu Gendre died on 08/01/2012 and it has been more than 7 years but not a single penny has been paid to

the claimants and the Claims Tribunal has closed his eyes by rejecting their application for releasing the compensation amount.

4. I have heard learned counsel for the petitioner at length.

5. It appears from the record that learned Claims Tribunal directed the Insurance Company to satisfy the decree and further directed to recover the

compensation amount from respondents No. 1 and 2 herein i.e. driver and owner who would have to furnish security for the entire amount which the

Insurance Company will pay to the claimants. The offending vehicle has already been attached as a part of the security.

6. The Supreme Court, in the matter of Oriental Insurance Co. Ltd. Vs. Nanjappan and others (2004) 13 SCC 22,4 has held as under : "8.

Therefore, while setting aside the judgment of the High Court we direct in terms of what has been stated in Baljit Kaur's case (supra) that the insurer

shall pay the quantum of compensation fixed by the Tribunal, about which there was no dispute raised, to the respondents claimants within three

months from today. For the purpose of recovering the same from the insured, the insurer shall not be required to file a suit. It may initiate a proceeding

before the concerned Executing Court as if the dispute between the insurer and the owner was the subject matter of determination before the Tribunal

and the issue is decided against the owner and in favour of the insurer. Before release of the amount to the insured, owner of the vehicle shall be

issued a notice and he shall be required to furnish security for the entire amount which the insurer will pay to the claimants. The offending vehicle shall

be attached, as a part of the security. If necessity arises the Executing Court shall take assistance of the concerned Regional Transport authority. The

Executing Court shall pass appropriate orders in accordance with law as to the manner in which the insured, owner of the vehicle shall make

payment to the insurer. In case there is any default it shall be open to the

Executing Court to direct realization by disposal of the securities to be furnished or from any other property or properties of the owner of the vehicle, the insured. The appeal is disposed of in the aforesaid terms, with no order as to costs.

7. Reverting to the facts of the present case, it is quite vivid from the above observations that learned Claims Tribunal has failed to take proper steps for making payment of the compensation amount awarded to the claimants by award dated 22/04/2014. It is unfortunate that though the awarded amount has been deposited in the account by the Insurance Company but still after more than 7 years from the date of death, the amount has not been disbursed to the claimants and learned Claims Tribunal has further rejected the application filed by the petitioners without taking proper steps to get respondents No. 1 and 2 served.

8. Learned Claims Tribunal is directed to ensure the presence of respondents No. 1 and 2 herein by all legally permissible modes and notices be served to them by special messenger within two weeks from today and then to obtain the undertaking as directed earlier and disburse the awarded amount as per award dated 22/04/2014 to the claimants within further two weeks without fail. If need arises, Claims Tribunal, Raipur will hold sitting during the Dussehra holidays in order to ensure the compliance of this order.

9. With the aforesaid direction, this writ petition stands disposed of. No order as to cost(s).

10. A copy of this order be sent to the concerned Claims Tribunal through the Registrar General by e-mail/fax by today itself.