

(2018) 08 CHH CK 0296

In the Chhattisgarh High Court

Case No : Writ Petition (Art. 227) No. 133 Of 2015

Satish Dewangan

APPELLANT

Vs

Parwati And Ors

RESPONDENT

Date of Decision : 27-08-2018

Acts Referred:

Code Of Civil Procedure 1908 — Order 9 Rule 13

Citation : (2018) 08 CHH CK 0296

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Pravin Kumar Tulsyan, Praveen K. Dhurandhar, R.N. Pusty, Pallav Mishra

Final Decision : Allowed

Judgement

Sanjay K. Agrawal, J

1. The Motor Accidents Claims Tribunal has passed ex parte award against the petitioner / owner of the vehicle on 22-6-2013. The owner filed

application under Order 9 Rule 13 of the CPC with a delay of 395 days which has been rejected by the Claims Tribunal against which this writ petition

has been preferred.

2. Learned counsel for the petitioner would submit that the vehicle was insured, but treating the vehicle as uninsured, liability has been fastened upon

the petitioner / owner and as such, the counsel duly engaged by the petitioner / owner did not appear in the trial of the motor accident claim case and

liability has been fastened, therefore, sufficient cause was shown for delay in filing the application which has not been considered and no enquiry was

made on the application and it was rejected.

3. Learned counsel for respondent No.4 would oppose the petition and would support the impugned order.

4. I have heard learned counsel for the parties and perused the record with utmost circumspection.

5. The Claims Tribunal ought to have made enquiry on the application under Order 9 Rule 13 of the CPC before rejecting the application and

opportunity could have been given to prove the stand taken in application to support the application for condonation of delay and to support the

application for setting aside the ex parte order which has not been done.

6. In view of the above, the order impugned dated 31-1-2015 is set aside and the application under Order 9 Rule 13 of the CPC is hereby restored to

its original number before the Claims Tribunal and the Claims Tribunal is directed to hold enquiry on the said application. The said exercise will be

done within three months from the date of receipt of a copy of this order after hearing the parties afresh, in accordance with law.

7. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).