



2024:CGHC:45985

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 1075 of 2024

- Bharti Axa General Insurance Company Limited Now Merged With ICICI Lombard General Insurance Company Limited Registered Office At ICICI Lombard House 414, Veer Savarkar Marg Near Siddhi Vinayak Temple Prabhadevi Mumbai MH Through Legal Manager Deepak Soni Aged 33 Yrs. S/o Late M.L. Soni ICICI Lombard General Insurance Co. Ltd. 5th Floor Sky Park In Front Of Bhatiya Hospital Civil Lines Raipur (C.G.) (Petitioner / Non - Applicant -3)

... Petitioner

versus

1. Deepak Kumar (Mrit) And Others S/o Shyam Lal Aged About 27 Years R/o Village Bijradih Thana Bhatapra Gramin District - Balodabazar (C.G.)
2. Rakhi Dhruw W/o Late Deepak Kumar Dhruw Aged About 25 Years R/o Village Bijradih Thana Bhatapara Gramin Taluka Bhatapara District - Balodabazar (C.G.)
3. Ku. Chahak Dhruw D/o Late Deepak Kumar Dhruw Aged About 4 Years R/o Village Bijradih Thana Bhatapra Garmin Taluka Bhatapara District - Balodabazar (C.G.)

4. Doman Dhruw S/o Late Deepak Kumar Dhruw Aged About 2 Years R/o Village Bijradih Thana Bhatapara Gramin Taluka Bhatapara District - Balodabazar (C.G.)
5. Shyam Lal Dhruw (Mrit) S/o Budhu Aged About 57 Years R/o Village Bijradih Thana Bhatapara Gramin Taluka Bhatapara District - Balodabazar (C.G.)
6. Bimla Bai Dhruw W/o Late Shyam Lal Dhruw Aged About 53 Years R/o Village Bijradih Thana Bhatapara Gramin Taluka Bhatapara District - Balodabazar (C.G.) (Respondent/ Applicants)
7. Chandrasekhar Dhruw And Others S/o Khorbahara Aged About 28 Years R/o Village Khapri (S) Thana Bhatapara Gramin Taluka Bhatapara District - Balodabazar (C.G.)
8. Rohit Kumar Sahu S/o Samelal Sahu Aged About 48 Years R/o Village Khapri (S) P.O. Nipaniya Thana Bhatapara Gramin Taluka Bhatapara District - Balodabazar (C.G.) (Repondent/ Non - Applicant 2 And 3)

... Respondents

For Petitioner : Mr. A.K. Samantaray and Mr. Raja Sharma,
Advocates

Hon'ble Shri Justice Deepak Kumar Tiwari

Order On Board

25/11/2024

1. This petition has been filed under Article 227 of the Constitution of India assailing the order dated 24.09.2024 passed in MACT No.09/2024 by the Additional MACT, Bhatapara, District Balodabazar, whereby the application preferred under Order 1 Rule 10(2) of the CPC for impleading United India Insurance Company Limited, which has covered third-party insurance for the offending vehicle at the time of the accident, was dismissed.

2. At the outset, learned counsel for the petitioner submits that the petitioner/Insurance Company has issued a policy for its own damage and in respect of the third-party insurance only and the same has been issued by the United India Insurance Company Limited, which is effective from 26.10.2018 to 25.10.2021. The petitioner has preferred an application to implead United India Insurance Company Limited as a party, but the trial Court has dismissed the said application only on the ground that the petitioner has not filed the written statement, however, the said Insurance Company is a necessary party for the fair adjudication of the said claim case. Hence this Petition.
3. Heard learned counsel for the petitioner and perused the documents annexed with the petition carefully.
4. From perusal of the application, it appears that for third-party, an insurance policy has been issued by the United India Insurance Company Limited and the petitioner company has only issued a policy for its own damages, so for proper adjudication of the said application, the presence of the United India Insurance Company Limited is necessary. In the circumstances, this Court finds it appropriate to direct the concerned Claims Tribunal to allow the said application and to issue notice on the said application to the United India Insurance Company Limited and to decide the same afresh after hearing the proposed party. Ordered accordingly.
5. With the aforesaid observations, this Petition is disposed of. Meanwhile, till adjudication of the aforesaid application, further proceeding of the trial Court shall remain stayed and the petitioner shall pay necessary PF

before the trial Court within a period of 15 days from the date of receipt of a copy of this order by ordinary as well as registered mode. The concerned trial Court shall decide the said application in the presence of the said Insurance Company within a further period of 45 days.

Sd/-

(Deepak Kumar Tiwari)
Judge

Priyanka