(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.(C) NO. 209 /2015

APPELLANTS / NON-APPLICANTS

1. Ramadhar, S/o Bhagirathi, aged about 60 years, Caste – Teli,

   (Owner)

2. Anandram Sahu, S/o Ramadhar Sahu, aged about 35 years, Caste – Teli,

   (Driver)

Both are R/o village Nakna, P.S., Post and Tahsil Ramanujnagar, District Surajpur (C.G.)

P.R.No. 4025/15
Presented by Shri Ashok Kushwaha
dated 24.2.15

VERSUS

RESPONDENTS / CLAIMANT

1. Raimuniya, W/o Goverdhan, aged about 50 years, Occupation – Agriculture, Caste – Teli, R/o village Keshavpur, P.S. and Tahsil Ramanujnagar, District Surajpur (C.G.)

2. United India Insurance Company Ltd. Branch Office – Bramh Road, Ambikapur, Tahsil Ambikapur, District Surguja (C.G.)

   (Insurer)

MISC. APPEAL U/S. 173 OF MOTOR VEHICLE ACT, 1988

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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.(C) NO. 209 OF 2015

APPELLANTS : Ramadhar & Another

Vs.

RESPONDENTS : Raimuniya & Another

Present:
Mr. Atanu Ghosh, Advocate : For the Appellants.
Mr. Dashrath Gupta, Advocate: For the Respondent No.2.

(Single Bench : Hon'ble Mr. P. Sam Koshy, J.)

ORAL ORDER
(27-02-2015)

(1) Learned Counsel for the Appellants submits that the present is an Appeal challenging the Award passed by the First Additional Motor Accident Claims Tribunal, Surajpur, dated 3.1.2015, in Motor Accident Claim Case No.299/2011.

(2) Learned Counsel for the Appellants submits that the present Appeal has been preferred by the owner and the driver of the offending vehicle in the accident and that the Appeal has been preferred only questioning the liability fastened upon the Appellants in spite of the fact that the driver of the offending vehicle had a proper valid driving licence at the time of accident in question and only on account of the fact that the Appellants could not produce the original driving licence the liability of Respondent No.2-Insurance Company has been discharged and in turn the liability has been fastened upon the present Appellants.

(3) It is further submitted by the learned Counsel for the Appellants that there was another claim case also arising out of the same accident, which was registered as Motor Accident Claim Case No.29/2012 filed before the Motor Accident Claims Tribunal, Surajpur, wherein, however, since the original driving licence of the driver of the offending vehicle, i.e., the Appellant No.2 in the present Appeal, had been produced before the Court, the liability was jointly and severally fastened also upon the Insurance Company.

(4) Learned Counsel for the Appellants further submits that on account of the fact that original driving licence has been submitted in M.A.C.C. No.29/2012 which has been decided on 6.2.2014 by the Motor Accident Claims Tribunal, Surajpur, it was only the photocopy which could be filed in the present case and which the Court below has not appreciated and therefore discharged the liability of the Insurance Company from payment of compensation and fastened the liability upon the Appellants, however it was ordered for pay and recover of the compensation award by the Insurance Company.

(5) This Court at this juncture calls upon Shri Dashrath Gupta, the Counsel who normally appears for the United India Insurance Co. Ltd., to take notice of the case and to verify whether the liability arising out of the same accident in M.A.C.C. No.29/2012 can be fastened upon the Insurance Company or not.

(6) After some time, Shri Dashrath Gupta, Counsel for Respondent No.2 – Insurance Company, on perusal of the two Awards, fairly submits to the Court that in fact the two claim cases arise out of the same accident and in M.A.C.C. No.29/2012, the liability has been fastened upon the Insurance Company which by it establishes the fact that there was no breach of policy conditions on the part of the Appellants in the instant case and therefore the liability in the instant case also should have been jointly and severally fastened upon the Insurance Company. However, Counsel for the Insurance Company only tried to justify the Award stating that perhaps this fact has not been brought to the notice of the Claims Tribunal on account of which the Claims Tribunal had not been able to appreciate this fact properly.

(7) Taking into consideration the submissions made by the counsel for the Appellants as well as the submissions of Shri Dashrath Gupta, counsel appearing for Respondent No.2 - Insurance Company, this Court is of the opinion that the ends of justice would meet in case if the impugned Award passed by the Claims Tribunal is modified to the extent that the liability which has been fastened upon the Appellants in the instant Appeal shall be jointly and severally fastened upon Respondent No.2-Insurance Company also.

(8) Accordingly, for the reasons given in the foregoing paragraphs, the instant Appeal stands allowed with the modification in the impugned Award to the extent that the liability for payment of compensation shall be jointly and severally fastened upon the Appellants as well as upon Respondent No.2 - Insurance Company.

(9) At this stage, it is stated at the bar that Respondent No.2-Insurance Company has already deposited the payment before the Claims Tribunal on the observation of pay and recover. Therefore, it is directed that no further proceeding shall be initiated by Respondent No.2-Insurance Company against the present Appellants.

(10) With the aforesaid observations, the Appeal stands allowed and disposed of.

Sd/-
P. Sam Koshy
Judge

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