

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1616 of 2015

National Insurance Company Limited Local Branch Office,
Priyadarshini Nagar, Bilaspur, District Bilaspur
(Chhattisgarh).....(Non Applicant No. 03)

---- Appellant

Versus

1. Smt. Sahana Khatun Wd/o Late Samjad Khan, Aged About 25 Years R/o Village Chhota, Tigra, Police Station Jari, District Gumla (Jharkhand)
2. Minor Ku. Heena D/o Late Samjad Khan, Aged About 3 Years Through Natural Guardian Mother Smt. Sahana Khatun, R/o Village Chhota, Tigra, Police Station Jari, District Gumla (Jharkhand)
3. Minor Ku. Amina D/o Late Samjad Khan, Aged About 1 Years Through Natural Guardian Mother Smt. Sahana Khatun, R/o Village Chhota, Tigra, Police Station Jari, District Gumla (Jharkhand).....(Claimants)
4. Ramnarayan Prasad Gupta S/o Shri Jugal Sao, R/o Karbala Road, Jashpur (Chhattisgarh).....(Non Applicant No. 01)
5. Vinod Ram S/o Jairam, Aged About 31 Years Occupation Driver, R/o Tanki Toli, Jashpur Nagar (Chhattisgarh)..... (Non Applicant No. 2)

---- Respondents

Mr. Qamrul Aziz, Advocate for the appellant.
Mr. Rishikant Mahobia, Advocate for respondents No.1 to 3.

Mr. Hemant Gupta, Advocate for respondents No.4. & 5.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/03/2016

Heard.

1. This appeal is directed against order dated 21.09.2015 passed by the Claims Tribunal by which the Claims Tribunal has

awarded compensation of Rs.20,27,000/- to the Claimants holding that the Insurance Company is liable for payment of compensation.

2. Learned counsel for the Insurance Company submits that the Claims Tribunal has committed illegality in fastening liability on the Insurance Company ignoring that there was breach of policy of the Insurance Company in as much as the deceased was unauthorizedly sitting in the tractor and trolley which was insured for agriculture and farming purposes. He submits that the Claims Tribunal has relied upon contradictory evidence of Sahana Khatun, widow of deceased and Ramnarayan, the owner of the tractor.

3. A perusal of order passed by the Claims Tribunal would show that in order to hold that there is no breach of policy, the Tribunal has taken into consideration the terms and conditions of the policy which permits sitting capacity of two persons. The evidence of Sahana Khatun and the tractor's owner Ramnarayan show that the deceased was employed as labourer by the owner of the tractor and while transporting sand for being used for agriculture purposes, the accident occurred resulting in death of Samjad Khan. The evidence that Samjad Khan was engaged by owner Ramnarayan has remained uncontroverted and unimpeachable. The policy, itself, shows that the sitting capacity was two. The oral evidence shows that at the time of accident, the deceased was sitting along with the driver in the tractor.

4. The aforesaid consideration by the Claims Tribunal does not warrant any interference and the appeal is dismissed.

5. Records be remitted back to the Claims Tribunal.

Sd/-
(Manindra Mohan Shrivastava)
Judge