NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 36 of 2008

Bajaj Allianz General Insurance Company Limited, through Branch Manager near Rajkumar College, G.E. Road Raipur at present Shiv Mohan Bhawan, Pandri, Vidhan Sabha Road, Raipur

---- Appellant

Versus

1. Smt. Jawa Bai Wd/o late Gopichand Patle, aged about 45 years
2. Mukesh Kumar S/o late Gopichand Patle, aged about 19 years
3. Ku. Pinki D/o late Gopichand Patle, aged about 16 years (Minor)
4. Saddam Kumar S/o late Gopichand Patle, aged about 14 years (Minor)
   Respondents 3 & 4 are minors through natural guardian mother Smt. Jawa Bai Wd/o late Gopichand Patle
   All are resident of village Kewtara, PS Pachpedi, Tahsil Masturi, District Bilaspur (CG) Claimants
5. Naval Singh S/o Gaind Singh, aged about 28 years, R/o Konargarh, PS Pamgarh, District Janjgir-Champa (CG) (owner and driver)

---- Respondents

For Appellant	:	Shri Rohitashav Singh, Advocate
For Respondents 1 to 4	:	Shri Deepak Jain, Advocate
For Respondent no.5	:	Shri Sobhit Kostha, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

12/12/2017

Present is an appeal by the Insurance Company assailing the award dated 31.10.2007 passed by the 8th Additional Motor Accident Claims Tribunal (FTC), Bilaspur (CG) in Claim Case No. 56 of 2006. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.3,62,400/- with interest @ 6% per annum from the date of application.

2. The Insurance Company in the instant case has preferred this appeal assailing the liability part on the ground that it is a case where there has been a definite evidence led by the Insurance Company to show that the driver of the offending vehicle did not have a valid licence on the date of accident, therefore, the liability ought to have been fastened upon the owner and driver and not on the Insurance Company. He referred to the deposition of NAW-1 Umesh Ku. Tripathi, the witness from RTO, Bilaspur who has stated that as per Exhibit D-1, the licnece which had been produced by the driver of the offending vehicle at the time of accident appears to be a fake licence. Thus, prayed for the award to be suitably modified.

3. Counsel appearing for respondent no. 5 i.e. the owner-cum-driver however, opposing the appeal submits that sufficient evidence has not been produced by the Insurance Company before the Tribunal to establish the fact that the licence which was produced by the driver was not genuine or was a fake document. He submits that even the statement of the witness of the Insurance Company does not disclose the fact that such a licence was issued in the name of somebody else. Thus, prayed for rejection of the appeal.

4. Perusal of the deposition of the witness from RTO, Bilaspur reveals that the relevant registers have not been produced before the Tribunal to establish the non issuance of such a licence. It also reveals that many of the registers have been lost in the office of the RTO during the course of its being shifted to one place to another. That what was the basis for issuance of Exhibit D-1 has also not been disclosed by the witness. In addition, whether the licence which was produced by the driver was in fact issued in the name of some other person also is not disclosed. The offending vehicle duly being insured under the present appellant is not in dispute.

5. In the aforesaid facts and circumstances of the case, this Court is of the opinion that there is no strong case made out by the Insurance Company calling for an interference with the finding arrived at by the Tribunal fastening the liability upon the Insurance Company. The appeal thus fails and is accordingly dismissed.

Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola