

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 634 of 2007

The Oriental Insurance Company Limited, Malviya Nagar, Durg (CG), Through: Divisional Manager, Divisional Office, Malviya Nagar, Durg (CG)

---- Appellant

Versus

1. Ramesh Kumar S/o. Nayan Das Vaishnav, aged about 19 years, R/o. Village Andhiyarkhor, Tahsil Bemetara, District Durg (CG)
2. Durgesh Kumar Gupta, S/o. Munna Lal Gupta, Aged about 20 years, R/o. Village Andhiyarkhor, Tahsil Nawagarh, Distt. Durg (CG)
3. Sadaram Satnami, S/o. Unknown, aged about years, R/o. Village Badhouli, P.S. Nawagarh, Distt. Durg (CG)

---- Respondents

For Appellant	:	Mr. Raj Awasthy, Advocate
For Respondent No.1	:	Smt. Renu Kochar, Advocate
For Respondent No.3	:	Ms. Reena Singh, Advocate on behalf of Ms. Sharmila Singhai, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25/08/2017

1. The present is an appeal under Section 173 of Motor Vehicle Act, assailing the award dated 30.03.2007, passed by the XIth Additional Motor Accident Claims Tribunal (FTC), Durg, in Claim Case No. 11/2007. Vide the impugned award the Tribunal in a claim case under Section 166 has awarded a compensation of an amount of Rs.43,920/- with interest @ 6% per annum from the date of application.
2. The sole ground of the appellant in the instant case is that the Tribunal in the instant case has not properly appreciated the fact that the offending vehicle at the relevant point of time was not duly insured with the appellant and that the liability has been wrongly fastened upon the Insurance Company. It was the alternative prayer of the counsel for the appellant even if there is a liability fastened upon the Insurance Company, the Tribunal itself in paragraph No.24 had made an observation that the Insurance Company shall first

deposit the amount before the Tribunal and liberty was granted to the Insurance Company to recover the same from the respondent No.2 i.e. the registered owner of the vehicle.

3. The contention of the appellant is that though there is an observation in this regard in paragraph No.24 of the impugned award, the said direction or the liberty for pay and recovery is not mentioned in the relief clause while deciding the issue No.5 and prays that the impugned award be modified to that extent.
4. Considering the fact that the impugned award in the instant case is more than 10½ years old i.e. the impugned order was dated 30.03.2007, the appeal also is more than 10 years old as this appeal is registered in the year 2007. This Court in the given facts and circumstances of the case at this juncture is not inclined to entertain the appeal of the Insurance Company on merits except for a direction being made that the amount of compensation awarded by the Tribunal, the Insurance Company shall have the liberty of recovering the same from the owner of the offending vehicle i.e. respondent No.3 as has been held in paragraph no.24 of the award of the Tribunal and which has not been challenged by the owner till date.
5. Thus the impugned award stands modified to the extent that the amount of compensation as awarded by the Tribunal shall be deposited by the appellant/Insurance Company first and shall have the liberty of recovering the same from the registered owner of the vehicle i.e. respondent No.3 as has been held by the Tribunal in paragraph No.24 of the impugned award.
6. The appeal thus stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge