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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.816 of 2009

Nirmalabai W/o Mansukhlal Sahu, aged about 40 years, R/o Village Baihar, Thana Arang, District Raipur (C.G).

---Appellant

Versus

1. Jamuna Bai Wd/o Chamanlal Manhare, aged about 26 years.
2. Ranjeet, aged about 05 years.
3. Ku.Chitrekha, aged about 03 years.
4. Ku.Neelam, aged about 02 years.
5. Jageshwar, aged about 01 years.
   Respondent Nos.2 to 5 are S/o & D/o Late Chamanlal Manhare. Respondent Nos.2 to 5 are minor through their natural guardian and mother Respondent No.1 Jamunabai.
6. Budharuram S/o Dayaram, aged about 55 years.
7. Dasmat Bai W/o Budharuram, aged about 50 years.
   All are R/o village Dhumrabhatha, Post Rasani, Tehsil – Arang, District Raipur (C.G.).
8. Girjashanker Dhruw @ Shankerlal S/o Chaitram Dhruw, R/o village Baihar, Thana Arang, District – Raipur, Present Address village Mongra, Thana Mahasamund, District Mahasamund (C.G.).
9. Bajaj Allianz Insurance Co.Ltd., Shiv Mohan Bhawan, Vidhansabha Road, Pandari, Raipur (C.G.).

---Respondents

For appellant	:	Shri Suresh Tandan, Advocate.
For respondent Nos.1 to 7	:	Shri Vivek Tripathi on behalf of Shri Awadh Tripathi, Advocate.
For respondent No.9/ Insurance Company	:	Shri Sachin Singh Rajput, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/10/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act challenging the award dated 28/02/2009 passed by the 10th Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case No.99/2007. Vide the said impugned award the Tribunal in a death case under Section 166 of the Motor Vehicle Act has awarded the compensation of Rs.4,54,000/- along with interest @ 6% per annum from the date of application.

2. While passing the said impugned award, the Tribunal has exonerated the Insurance Company and have fastened the liability of payment of compensation upon the owner of the offending vehicle i.e. Tractor bearing registration No.CG-04-DA-2378 and the Trolley bearing registration No.CG-04-DA-1798.

3. Present is an appeal preferred by the owner assailing the impugned award on the ground that, the appellant had infact produced a fake policy to show that the vehicle was duly insured and the liability of payment of compensation would be upon the owner i.e. the present appellant.

4. The counsel for the appellant submits that, it is a case where the owner herself had entered appearance before the Tribunal and had tried to justify her case and also deposed that, the vehicle involved in the case was duly insured with the respondent No.9-Insurance Company.

5. Perusal of the record would show that, the Insurance Company in the instant case have adduced the evidence of three persons namely Vinish Vicent-NA/2-the officer who makes all the under writing while issuance of the policy, Vikesh Singh-NA/7-the investigator of the alleged accident and Ashutosh Singh-NA/8-the law officer of the Insurance Company all of whom had categorically disputed the fact that, the policy produced by the present appellant was not a genuine document but is a fabricated document.

6. Another reason with which this court is forced to take the inference against the owner that the policy is a fake policy is that, the cover note number which has been reflected in the fake policy is the same cover note which was issued in favour of the present appellant at the time of the purchase of the vehicle that is policy which was issued for the previous year. The number of the cover note cannot be the same for the subsequent year.

7. Another aspect which cannot be brushed aside is the fact that, the premium amount paid for the previous year is reflected to be the same what is said to have been paid while issuance of the policy for the subsequent year which would never be possible as for the subsequent policy issued, there would be a substantial amount of rebate which the owner of the vehicle gets in addition to the depreciation of the value of the vehicle which would reduce the premium amount.

8. Thus, for all these reasons it stands established that, the policy which was relied upon by the counsel for the appellant during the course of the trial was not a genuine document and that the same clearly fell within the four corners of fake policy.

9. The appeal thus being devoid of merits deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Sumit