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HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 238 of 2007**

The New India Assurance Co. Ltd. through the Divisional Manager,
The New India Assurance Co.Ltd. Second Floor, Rama Trade Centre,
Bus Stand Road, Bilaspur (CG).

---- Appellant**Versus**

1. Kumbhkaran Gond S/o Dinesh Ram, aged about 22 years, occupation Labour, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).
 2. Pahaduram Sori, S/o Shri Bhangiram Souri, Aged about not known.
 3. Naresh S/o Mahadu Ram Sori, aged not known.
- Both respondents No. 2 & 3 are R/o Village Maradev, Tehsil Narharpur, Distt. Kanker (CG).

---- Respondents**MAC No. 239 of 2007**

The New India Assurance Co. Ltd. through the Divisional Manager,
The New India Assurance Co.Ltd. Second Floor, Rama Trade Centre,
Bus Stand Road, Bilaspur (CG).

---- Appellant**Versus**

1. Jeewan Lal S/o Dayaram Yadav, aged about 34 years, occupation Labour, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).
 2. Pahaduram Sori, S/o Shri Bhangiram Souri, Aged about not known.
 3. Naresh Sori S/o Mahadu Ram Sori, aged not known.
- Both respondents No. 2 & 3 are R/o Village Maradev, Tehsil Narharpur, Distt. Kanker (CG).

---- Respondents**MAC No. 240 of 2007**

The New India Assurance Co. Ltd. through the Divisional Manager,
The New India Assurance Co.Ltd. Second Floor, Rama Trade Centre,
Bus Stand Road, Bilaspur (CG).

---- Appellant**Versus**

1. Rambharosa S/o Siyaram Gond, aged about 21 years, occupation Labour, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).
 2. Pahaduram Sori, S/o Shri Bhangiram Souri, Aged about not known.
 3. Naresh S/o Mahadu Ram Sori, aged not known.
- Both respondents No. 2 & 3 are R/o Village Maradev, Tehsil Narharpur, Distt. Kanker (CG).

---- Respondents

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MAC No. 250 of 2007

The New India Assurance Co. Ltd. through the Divisional Manager,
The New India Assurance Co.Ltd. Second Floor, Rama Trade Centre,
Bus Stand Road, Bilaspur (CG).

---- Appellant**Versus**

1. Shatruhan S/o Gayaram by caste Gond, Aged about 30 years, occupation, Labour, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).
 2. Pahaduram Sori, S/o Shri Bhangiram Souri, Aged about not known.
 3. Naresh S/o Mahadu Ram Sori, aged not known.
- Both respondents No. 2 & 3 are R/o Village Maradev, Tehsil Narharpur, Distt. Kanker (CG).

----Respondents

For Appellant	:	Shri Sourabh Sharma, Advocate.
For Owner & Driver	:	Ms. Nandkumari Kashyap, Advocate.
For Claimants	:	Smt. Indira Tripathi, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****18/08/2017**

1. These are four appeals preferred by the Insurance Company under Section 173 of the Motor Vehicles Act against the award dated 23.11.2006 passed by the Additional Motor Accident Claims Tribunal, Dhamtari (in short, the Tribunal) in Claim Case Nos.230,237,233 and 238 of 2004 respectively. Vide the impugned award the Tribunal in above claim cases preferred by the claimants under Section 166 of the Motor Vehicles Act has awarded compensation of Rs.26,000/-,26,000/-25,000/- and Rs.26,000/- respectively.
2. The brief facts of the case is that, all the claimants claimed to be the labourers working on the Tractor-Trolley bearing registration No. CG-05-9205 and CG-05-9206 belonging to the respondent No.2 which

was being driven by respondent No.1 and in the course of their employment on 06.01.2004 in the said Tractor-Trolley, en-route the vehicle turned turtle as a result of which all the claimants sustained injuries.

3. The ground of challenge by the appellant-Insurance Company is that the risk of persons travelling in Tractor-Trolley were not covered under the policy which was taken by the owner of the Tractor and therefore, the insurance company could not have been saddled with the liability of payment of compensation in these cases. It was further contended that the Tractor-Trolley was insured for the agriculture purpose and the same was being used other than agriculture purpose i.e. for commercial purposes and therefore also the insurance company ought to have been exonerated of its liability of payment of compensation to the claimants.
4. Be that as it may, a perusal of records would show that there were five claim cases in all which were filed against the same accident and the appellant-insurance company had challenged the award passed in all the five cases. The present are four appeals and another appeal was filed by way of Civil Revision (Civil Revision No.116 of 2011) as the amount awarded was less than Rs.10,000/-. The said Civil Revision was preferred against the award passed in claim case No.234 of 2004 where the injured was Satish. Civil Revision No.116 of 2011 stands rejected vide order dated 27.11.2012. While dismissing the said Civil Revision, the co-ordinate Bench of this High Court has also considered the liability part of the insurance company

and held as under :

“.....So far as the issue relates to liability of the insurance company is concerned, even this issue cannot be decided in favour of the Insurance Company in the light of the factual finding recorded by the Tribunal in favour of the claimant and against the insurance company. The Tribunal could not rebut by adducing any evidence as to in what capacity injured were travelling in the offending vehicle. The Tribunal was therefore, justified in accepting the evidence adduced by the claimant on that issue for fastening the liability on the insurance company arising out of the accident.”

5. In view of the aforesaid categorical findings of the Bench of this High Court in the Civil Revision preferred by the present appellant-insurance company against the same accident rejecting the liability part challenged by the insurance company, this court does not intend to take a different view than what has been taken by the co-ordinate Bench in the Civil Revision.
6. For the reasons mentioned hereinabove, all the appeals preferred by the appellant-insurance company stand dismissed.

Sd/-
(P. Sam Koshy)
Judge