

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 938 of 2017**

1. Vishwanath @ Konhat S/o Nanhu Rajwade, aged about 27 years, Occupation Driver, R/o Village Porhi, P.S. & Tahsil Lakhanpur, District Surguja, Chhattisgarh(Driver)
2. Navratan Rajwade S/o Budhi Ram Rajwade, aged about 48 years, Occupation Agriculture, R/o Village Porhi, P.S. & Tahsil Lakhanpur, District Surguja, Chhattisgarh(Owner)

---- Appellants**Versus**

1. Smt. Panmeshwari W/o late Hawan Sai, aged about 25 years, Occupation Hosewife, R/o Village Porhi, P.S. & Tahsil Lakhanpur, District Surguja, Chhattisgarh(Claimant)
2. Pushpendra S/o late Hawan Sai, aged about 2 years, Caste Rajwar, being minor through the natural guardian mother, R/o Village Porhi, P.S. & Tahsil Lakhanpur, District Surguja, Chhattisgarh(Claimant)
3. Branch Manager, Oriental Insurance Company, near Ambedkar Chowk, Ambikapur, District Surguja, Chhattisgarh(Insurer)

---- Respondents

For Appellants : Shri Ashok Ku. Shukla along with Shri Atanu Ghosh, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06/07/2017**

Present is an appeal by the owner and driver assailing the order dated 21.07.2016 passed by the 5th Additional Motor Accident Claims Tribunal, Surguja (Ambikapur (CG) in M.A.C.C. No.75/2015. Vide the impugned award, the Claims Tribunal has awarded compensation of Rs.5,32,000/- to the claimants on the death of deceased Hawan Sai i.e. the husband of

claimant no.1 and father of claimant no.2 fastening the liability of payment of compensation on the owner and driver.

2. In the instant case, since the driver of the offending tractor was not having a valid licence at the time of accident, the liability for payment of compensation has been fastened upon the owner of the tractor and the Insurance Company has been discharged from the said liability.

3. The solitary ground of challenge in the instant appeal is that the Court below has not properly taken into consideration the contention of the driver not having a valid licence. According to the appellant, it ought to have been proved by the Insurance Company that the driver at the relevant point of time was not having valid licence. Hence, prayed for modifying the award being bad to the extent of fastening the liability upon the Insurance Company.

4. However, on perusal of the record as also the judgment passed by the Tribunal it clearly reflects that the owner as well as the driver both have failed to produce the licence before the Tribunal neither has the appellant in the present appeal come up with a stand that the driver had a valid licence at the relevant point of time. In the absence of any proof of there being a licence much less a valid licence in possession of the driver at the relevant point of time, this Court does not find any strong case made out calling for interference with the impugned award.

5. The appeal thus being devoid of merits stands dismissed.

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