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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1248 OF 2017

Branch Manager, The New India Assurance Company Limited, Sada Complex, Transport Nagar, Korba (C.G.)

… Appellant

Versus

1. Jagtaran Bharti, S/o Niranjan Bharti, aged about 26 years, R/o Pendri, Police Station Bhatapara, District Baloda Bazar (C.G.), presently residing through Jeewan Lal Manhar, Village Kewachi, Police Station and Tahsil Bilha, District Bilaspur (C.G.)
2. Kanhai Singh, S/o Satyanarayan Singh Rajput, R/o Village Lacchanpur, Outpost Jhariya, Police Station Janjgir, District Janjgir-Champa (C.G.)
3. Satyanarayan Singh Rajput, R/o Village Lacchanpur, Outpost Jhariya, Police Station Janjgir, District Janjgir-Champa (C.G.)

… Respondents

For Appellant : Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/09/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the Insurance Company, assailing the award dated 17.5.2017 passed by Additional Motor Accident Claims Tribunal, Bilaspur, in Claim Case No. 71/2016.

2. Vide the said impugned award, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, has granted a compensation of only Rs.38,860/- to the claimant with interest thereon at the rate of 7.5% per annum from the date of the claim application.

3. Learned Counsel for the Insurance Company assails the impugned award on the ground that the driver of the offending vehicle, who had a licence only to drive the 'Light Motor Vehicle', did not have a proper endorsement from the concerned Regional Transport Office to drive the commercial passenger vehicle. Likewise, the vehicle at the time of accident was overloaded, inasmuch as there were about 15 passengers in the vehicle at the time of accident and since the vehicle was being run beyond the permissible sitting capacity, the Insurance Company should be exonerated of its liability. He also contended that the vehicle involved in the accident also did not have proper permit.

4. However, on perusal of the record, it reflects that the Insurance Company has not adduced any evidence to disprove the claim of the claimant. So far as the driver not having proper endorsement to drive the vehicle is no longer a ground available for the Insurance Company in the light of a Larger Bench's decision of the Hon'ble Supreme Court in the case of **Mukund Dewangan** v. **Oriental Insurance Company Limited, AIR 2017 SC 3668**. As regards, the other grounds which have been raised by the Insurance Company, since there is no evidence adduced by the Insurance Company to substantiate these contentions, this Court does not find any strong ground in the appeal worth admitting the same. The appeal thus deserves to be and is accordingly rejected. This Court is also not inclined to entertain the appeal considering the meagre amount of compensation awarded by the Tribunal.

5. In the result, the appeal being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/