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HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1161 of 2017**

The Oriental General Insurance Company Limited Through Branch
Power House Road, T.P. Nagar Korba, Tahsil And District Korba,
Chhattisgarh.

---- Appellant**Versus**

1. Khudram Korche S/o Late Magmohan Singh, Aged About 56 Years
2. Smt. Bhudhmaniya Bai W/o Khudram Korche, Aged About 53 Years
3. Jagatpal Singh Korche, S/o Khudram Kkorche, Aged About 33 Years
4. Bhagatpal Singh Korche S/o Khudram Korche, Aged About 30 Years
5. Kahatram Korche, S/o Khudram Korche4 Aged About 22 Years
All are R/o Village Salihabhatha, Police Station Bango, Tahsil Podi
Uroda, District Korba, Chhattisgarh.
6. Gagan Deep Singh Tank Ravindra Singh Tank, Aged About 27 Years
R/o Village Main Road, Adka, Chhepdapara, Police Station and
District Kondagaon, Chhattisgarh.Non Appl. No. 1
7. Ravindraf Singh Tank S/o Niranjan Singh Tank Aged About 27 Years
R/o Village Main Road, Adka, Chhepdapara, Police Station And
District Kondagaon, Chhattisgarh.Non Appl. No. 2

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For Appellant	:	Shri HB Agrawal, Sr. Advocate along with Shri Pankaj Agrawal and Smt. Prabha Sharma, Advocates.
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SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/08/2017**

1. This is insurer's appeal under Section 173 of the Motor Vehicles Act
against the award dated 19.04.2017 passed by the Addl. Motor
Accident Claims Tribunal, Katghora (in short, the Tribunal) in Claim
Case No.77/2016.
2. Brief facts of the case is that, the deceased who was going on
motorcycle bearing registration No. CG-12-AP-2616 hit a Truck
bearing registration No.CG-04-JA-0953 which was abruptly stopped
in the middle of the road without any indicators and in the dark as a

result of which the accident arose. The legal representatives of the deceased filed a claim case under Section 166 of the Motor Vehicles Act. The Tribunal vide impugned award had allowed the claim application and ordered for payment of compensation to the tune of Rs. 40,06,457/-. It is this award which is under challenge in this appeal.

3. The ground of challenge raised in the appeal is the fact that the deceased riding the motorcycle has hit the stationary Truck from behind would by itself mean that there is an element of negligence on the part of deceased and therefore, there should have been contributory negligence assessed by the Tribunal. In addition, the appellant has questioned the fact that the driving licence of the deceased was not properly produced, proved or established before the Tribunal. It was also contended that since there was no direct evidence of the age of the deceased, the multiplier applied by the Tribunal also was not proper. There was also no fitness certificate produced before the court in respect of the offending vehicle.
4. Having heard the counsel for the appellant and on perusal of records, this court finds that the insurance company has not led any evidence, neither has it examined any witness to substantiate the contention that they have raised in this appeal. In the absence of any evidence to prove the contention, this court finds it difficult to accept the grounds of challenge raised by the insurance company in this appeal as it does not have any basis nor is there any evidence with which it can be established or at least an inference could be drawn. Another

aspect which is detected during the course of hearing is that the driver of the offending Truck was prosecuted for the offence under Section 283 and 304-A IPC vide crime number 115 of 2016 registered at Police Station Bhanpuri, Distt. Bastar.

5. For the aforesaid reasons, this court does not find a strong case made to be worth admitting the appeal. The same deserves to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder