

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1452 of 2017**

Through Divisional Manager, The Oriental Insurance Company Lmt,
Branch Office, Madina Building, Kachari Chauk, Raipur, District
Raipur, Chhattisgarh

---- Appellant**Versus**

1. Smt. Tikeshwari Sahu W/o Late Vishal Sahu, Aged About 25 Years
2. Khilashwar Sahu S/o Late Vishal Sahu, Aged About 6 Years
3. Lalita Sahu D/o Late Vishal Sahu, Aged About 3 Years
4. Bharat Sahu S/o Late Nandu Ram Sahu, Aged About 50 Years
5. Smt. Sajani Bai W/o Shri Bharat Sahu, Aged About 48 Years

Respondents No. 2 and 3 are Minor, through Guardian mother
appellant No.1 Smt. Tikeshwari Sahu,

R/o Gram Banka, Police Station Jonk Nuapara (Orissa)

6. Ramesh Kumar Yadav S/o Shri M.R. Yadav, Aged About 48 Years
R/o Main Road Gidam, Thana Gidam, District Dantewada,
Chhattisgarh
7. Bhulau Kewat S/o Shri Hera Singh Kewat, Aged About 40 Years R/o
Tatibandh, District Raipur, Chhattisgarh

----Respondents

For Appellant : Mr. Deepak Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/11/2017**

1. The challenge in the present appeal is the award dated 30.06.2017,
passed by the 1st Additional Motor Accident Claims Tribunal, Raipur,
Chhattisgarh, in Claim Case No. 130/2013.
2. Vide the impugned award, the Tribunal, in a death case under
Section 166 of the Motor Vehicles Act has awarded a compensation
of Rs.6,86,600/- with interest @ 9% per annum from the date of
application.

3. The appeal is by the Insurance Company assailing the award only on the ground that the vehicle at the relevant point of time did not have a valid permit. According to Mr. Gupta, the accident occurred in the State of Orissa and that the driving a vehicle in a different State, there has to be an Inter-State permit or National permit in possession of the Owner-cum-Driver and which in the instant case was not found and therefore the Insurance Company should have been exonerated of its liability and the liability should have been fastened upon the Owner-cum-Driver. He submits that the Insurance Company has led the evidence of the Transport Authority as well as officer from the Insurance Company in this regard.
4. A perusal of the record would show that witness from the R.T.O. Raipur AW/2-Ramchandra Kunjam himself has stated that in a particular case where the vehicle do not have regular National or Inter-State permit, they can obtain temporary permit from the check-post situated at the border, who are authorized to issue temporary permit for crossing the border. In the instant case the said AW/2 has also deposed that he was not in a position to ascertain whether the offending vehicle at the relevant point of time did have temporary permit in this regard from the check-post at the border.
5. In the given facts and circumstances, this Court is of the opinion that it has not been conclusively proved by the Insurance Company, whether the offending vehicle did not have a temporary permit for crossing the border of the State of Chhattisgarh.
6. Further, the contention of the Insurance Company is also not sustainable for the reason that it is settled position of law that merely

because the vehicle does not have a valid permit by itself would not absolve the Insurance Company of its liability, as the same at best would only be breach of the provisions of the Motor Vehicles Act for which the Owner and Driver could be prosecuted under the said Act.

7. Under the given circumstances, this Court is of the opinion that no strong case has been made by the appellant worth admitting the appeal and the appeal thus stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved