NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1356 of 2017

United India Insurance Company Ltd. Branch Office, Korba, District Korba Chhattisgarh Through Authorized Signatory United India Insurance Company Limited, Divisional Office, Bilaspur, 2nd Floor, Gurukripa Towers, Vyapar Vihar Road, Bilaspur Chhattisgarh

---- Appellant

Versus

1. Ramnarayan Yadav S/o Jharihar Aged About 60 Years
2. Smt. Basanti W/o Ramnarayan Yadav. Aged About 58 Years

   Both R/o Village Jhilmili, Police Station And Tehsil Bhaiyathan District Surajpur, Chhattisgarh.
3. Mst. Binu Wd/o Late Govind Bhai Aged About 58 Years Occupation House Wife R/o Bada Bazar Chirmiri Post And Police Station Chirmiri District Koriya Chhattisgarh.
4. Mahesh Sonvani S/o Ramcharan Aged About 23 Years Occupation Driver R/o Village Mohali Post, Thana & Tehsil Bhaiyyathan District Surajpur Chhattisgarh

----Respondents

For Appellant	:	Mr. B.N. Nande, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

04/10/2017

1. Heard on I.A. No.1, which is an application for condonation of delay. For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 81 days in filing the appeal stands condoned.
2. The present is an appeal under Section 173 of the Motor Vehicles Act challenging the award dated 24.03.2017, passed by the 2nd Additional Motor Accident Claims Tribunal, Surajpur, Chhattisgarh, in Motor Accident Claim Case No.72/2015.
3. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.5,21,000/- with interest @ 9% per annum from the date of application.

4. Counsel for the appellant challenges the award on the ground that sufficient opportunity of hearing has not been granted to the Insurance Company to lead evidence. According to the counsel for the appellant, the Insurance Company had taken steps on repeated occasions by issuing process to call upon the witnesses from the concerned RTO, so as to prove that the driver of the offending vehicle at the relevant point of time was not having a valid license and the license produced was a fake license as per Exhibit D/2 to D/3.

5. The perusal of record would show that the Insurance Company had been granted a couple of opportunities to lead evidence and they have led the evidence of the administrative officer, who has stated before the Tribunal of the license being fake. However, what was relevant was to prove the said issue by corroborating the same by leading evidence of an officer from the RTO itself, who would have proved, of the license having not being issued from the concerned Transport Office. What is also pertinent to take note of is the fact that the Insurance Company has also not led any evidence of their Investigator who had gone to the office of the concerned RTO and found out that the license of the driver was fake.

6. In the absence of both the grounds raised by the Insurance Company cannot be said to be strong enough to interfere with the finding arrived at by the Tribunal in its award under challenge.

7. The appeal of the Insurance Company thus being devoid of merit, the same fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved