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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1478 OF 2017

The Oriental Insurance Co. Ltd., through the Branch Manager, Rama Trade Centre Rajeev, in front of Plaza, Bilaspur, District Bilaspur (C.G.)

… Appellant

versus

1. Smt. Rukmani Dhruv, Wd/o Late Naresh Singh Dhruv, aged 43 years
2. Ravishankar Dhurv, S/o Late Naresh Singh Dhruv, age 20 years
3. Kumari Shushma Dhruv, D/o Late Naresh Singh Dhruv, age 17 years
4. Ravindra Dhruv, S/o Naresh Singh Dhruv, age 14 years

No. 3 and 4 are represented through natural guardian Wd/o Naresh Singh Dhruv.

No. 1 to 4 are R/o village Khapari, Tahsil- Takhatpur, Disrict Bilaspur (C.G.)

5. Mukesh Bhardwaj, S/o Atmaram Bhardwaj, aged about 28 years, R/o Village Bharani, Thana Chakarbhata, Tahsil Takhatpur, District Bilaspur (C.G.)
6. Sachin Kumar Pandey, S/o Kanti Kumar Pandey, owner, R/o Village Masturi, Thana Masturi, District Bilaspur (C.G.)

… Respondents

For Appellant : Mr. N.K. Malviya, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/11/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, preferred by the appellant-insurance company, assailing the award dated 30.6.2017 passed by the Additional Motor Accident Claims Tribunal, Bilaspur, in Claim Case No.928/2014.

2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.3,50,000/- in favour of the claimants, with interest thereon at the rate of 7.5% per annum from the date of presentation of the claim application.

3. Challenge in the present appeal by the insurance company is to the quantum of compensation awarded and the liability part is also challenged as there is an element of contributory negligence which can be inferred from the factual matrix of the case so also, the deceased in the instant case was in a drunk condition at the time of accident and which further strengthened the claim for contributory negligence. The driving licence of the drivers of the two vehicles involved in the accident was not produced and that an inference has to be drawn that they did not have an effective licence at the time of accident.

4. Perusal of record would show that the witness who has been examined on behalf of the insurance company has not been able to adduce sufficient proof before the Tribunal with which the Tribunal could have taken a different view than that has been arrived at by it. This Court therefore does not find any strong case made out by the insurance company calling for an interference with the impugned award. Further, the amount of compensation awarded also does not seem to be either exorbitant or excessive as out of Rs.3,50,000/-, Rs.2,00,000/- has been awarded only towards the medical expenditures incurred and only Rs.1,50,000/- is towards the pain and suffering, special diet and under other heads.

5. The appeal of the insurance thus being devoid of merits the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/