NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1497 of 2017

1. Radheshyam Dubey, S/o. Jagnarayan Dubey, R/o. Janghai Bazar, Tahsil Handiya, Allahabad (Uttar Pradesh)
2. Faijan Aktar, S/o. Dastgir Ansari, Aged about 23 years, R/o. Village Ramchandrapur (Muslimpara), Police Station Ramchandrapur, District Balrampur-Ramanujganj, Chhattisgarh

---- Appellants

Versus

1. Rajendra Yadav, S/o. Lalmohan Yadav, Aged about 35 years, R/o. Village Dolangi, Police Station Ramchandrapur, District Balrampur-Ramanujganj Chhattisgarh
2. United India Insurance Company Limited, Brahma Road, Near Kumkum Hotel, Ambikapur, District Surguja, Chhattisgarh

–--Respondents

For Appellants	:	Mr. Akhilesh Mishra, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2017

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 04 days in filing the appeal stands condoned.

2. Present is an appeal by the Owner under Section 173 of the Motor Vehicles Act assailing the order dated 20.07.2017, passed by the Additional Motor Accident Claims Tribunal, Ramanujganj, District Surguja, Chhattisgarh, in Claim Case No. 05/2016.

3. Vide the impugned award, the Tribunal, in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.1,25,000/- with interest @ 6% per annum from the date of application.

4. Vide the impugned award the Tribunal has exonerated the Insurance Company and has fastened the liability of payment of compensation upon the present appellants. The ground for exonerating the Insurance Company was the Driver not having a license to drive the Pickup van involved in the accident.

5. The ground of challenge in the impugned order firstly is that the Owner has been proceeded ex-parte and that he has not got sufficient opportunity to disprove the contentions put forth by the Insurance Company.

6. Further, it is also the contention of the appellants that reading of the facts would by itself show that there was an element of contributory negligence on the part of the injured for the accident to occur.

7. Perusal of record show that the Insurance Company had led the evidence of a witness from the concerned R.T.O. i.e. Non-Applicant Witness No.1 Ramnath Ram, who is an employee of the R.T.O. Ambikapur, who has specifically referring to the license of appellant No.2 has said that the appellant No.2 at the relevant point of time had a license for driving only a motorcycle. Thus, it is evident that he did not have a license to drive a Light Motor Vehicle or a transport vehicle. Thus, there is a clear breach of policy condition. So far as the contributory negligence part is concerned, there is no evidence which has come before the Tribunal with which the contention raised by the appellant can get strength.

8. In the given factual matrix of the case, this Court does not find any substantial materials produced by the appellant with which the impugned order calls for interference.

9. Thus, the appeal of the Owner being devoid of merit fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved