NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1643 of 2017

United India Insurance Company Ltd. Branch Office Ambikapur, Bramh Road, Near Hotal Kumkum, District Sarguja, Chhattisgarh. (Insurer)

---- Appellant

Versus

1. Patiram Gupta S/o Triveni Sao, Aged About 47 Years,
2. Lilawati W/o Patiram, Aged About 45 Years

   Both Caste Kalwar, Both respondent No.1 and 2 are Claimants and are R/o Village Govindpur, Tehsil Pratappur, Surajpur, Chhattisgarh.
3. Irsad Ansari, S/o Jalil Ansari, Aged About 20 Years Caste Musalman, R/o Village Badwar, Thana Ramkola, District Surajpur, Chhattisgarh. (Vehicle Driver)
4. Mahesh Ram, S/o Manraj, Aged About 25 Years
5. Bhavesh Ram, S/o Manraj, Aged About 23 Years

   Both respondent No. 4 and 5 R/o Village Narola, Tehsil Pratappur, Surajpur, Chhattisgarh. (Legal Heir Of Vehicle Owner Deceased Pratosh)
6. Shila Gupta, D/o Laxmi Gupta, Aged About 30 Years Occupation Teacher,
7. Ananya Gupta, D/o Pratosh Gupta, Age 1 year and 6 months, Guardian Mother Shila Gupta,

   Both respondent No. 6 & 7 are R/o Village Dhondha, Tehsil Pratappur, Present Resident Of Village Dhondha, Tehsil Pratappur, Present Resident Jhumarpara, Tehsil Bhaiyathan, Thana Bhatgaon, District Surajpur, Chhattisgarh.

–--Respondents

For Appellant	:	Mr. Sudhir Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/12/2017

1. The challenge in the present appeal is the award dated 04.09.2017, passed by the Additional Motor Accident Claims Tribunal, Pratappur, District Surajpur, Chhattisgarh, in Motor Accident Claim Case No. 54/2015. Vide the said award, the Tribunal in a death case has awarded a compensation of Rs.1,00,000/- to the claimants with interest @6% per annum from the date of application.

2. The counsel for the appellant submits that the Insurance Company in the instant case has not received any premium covering the risk of the owner and therefore in the absence of any premium received, the Tribunal should not have fastened the liability upon the present appellant. He submits that the Insurance Company could be fastened with the liability only against the policy issued and on receipt of premium covering the risk of the owner. He further refers to the policy which was produced before the Tribunal and also the evidence which was deposed by the officer of the Insurance Company to substantiate his contentions. However perusal of record would show that the policy issued in the instant case is a package policy and which is not in dispute and as per the policy the limits of liability is also clearly mentioned in the policy itself, which covers the death or bodily injury in respect of any one accident as per the Motor Vehicles Act. Moreover, the Tribunal taking into consideration the fact that the deceased himself was driving the motorcycle and was the owner of the motorcycle involved in the accident has been awarded a compensation of only Rs.1,00,000/-.

3. Considering the fact that the policy issued was a package policy and the fact that the amount awarded is only Rs.1,00,000/- in a death case, this Court taking into consideration the quantum of compensation awarded does not find it to be a case calling for an interference at this juncture leaving open the issue to be agitated in an appropriate case, the appeal stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved