

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1667 of 2017

Manager Insurance Company Mangma (Actual Name Of The Co. Is Mangma H. D. I. General Insurance Company Limited, D. B. Plaza 5th Floor Beside Dainik Bhaskar Press Raipur Chhattisgarh (Insurer))

---- Appellant

Versus

1. Dipak Shrivastava S/o Baulal Shrivastava Aged About 35 Years R/o Hasua, Thana Girdhauri District Baloda Bazar Bhatapara Chhattisgarh (Claimant)
2. Kailash Nirmalkar S/o Itwari Nirmalkar Aged About 28 Years R/o Kota Thana And Tahsil Kasdol, Dist Baloda Bazar Bhatapara Chhattisgarh (Driver)
3. Kamal Prasad Karsh S/o Firanta Karsh Aged About 40 Years R/o Mohtara, Thana And Tahsil Kasdol, Dist Baloda Bazar Bhatapara Chhattisgarh (Owner)

---Respondents

For Appellant	:	Mr. Rohitashva Singh, Advocate
---------------	---	--------------------------------

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/12/2017

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 143 days in filing the appeal stands condoned.
2. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 12.04.2017, passed by the 3rd Additional Motor Accident Claims Tribunal, Baloda Bazar, District Baloda Bazar-Bhatapara, Chhattisgarh, in Motor Accident Claim Case No. 52/2016. Vide the impugned award the Tribunal in an injury case has awarded a compensation of Rs.2,50,273/- with interest @7.5% per annum from the date of application.

3. The counsel for the appellant-Insurance Company submits that the challenge is on two grounds, firstly the Owner and Driver of the motorcycle, on which the injured was traveling, has not been made a party. Secondly, the Driver of the offending vehicle did not have an effective license, in as much as he only had a license to drive a Light Motor Vehicle and not a Transport Vehicle.
4. So far as the first ground is concerned, this Court does not find any substantial error or ground so raised as the accident undisputedly has been established to have been occurred on the negligence of the Driver of the offending vehicle, who is a party before this Court. Thus, the said ground stands negated.
5. So far as the second ground of the Driver of the offending vehicle not having an effective license is concerned, the said issue also does not have much force as the said proposition of law has been recently settled by the Hon'ble Supreme Court in the recent Larger Bench decision in the case of ***"Mukund Dewangan vs. Oriental Insurance Company Limited"* AIR 2017 S.C. 3668**. This Court thus does not find any strong case made out for interfering with the impugned award.
6. The appeal thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved