

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 136 OF 2002

Divisional Manager, Divisional Office, The New India Assurance Company Limited, Madina Manzil, Jail Road, Raipur.

... Appellant

Versus

1. Santoshi Bai, W/o Late Bhagatram Yadav, aged 20 years, Housewife, R/o Village Khadawa, P.S. Abhanpur, District Raipur (C.G.)
2. Dinesh Kumar, S/o Manoj Kumar Banjare, aged 23 years, Truck Driver, R/o Village Bhavadih Kala, P.S. Kharora, District Raipur.
3. Govind Sharma, S/o Lekhchand Sharma, owner of Truck, R/o through C.N. Dhoot South Freight Carrier, Hirapur Ring Road, Raipur (C.G.)
4. Divisional Manager, Divisional Office, National Insurance Co. Ltd., Mobin Mahan, G.E. Road, Raipur.
5. Shatrughan, S/o Ram Singh Sahu, aged 22 years, Driver Tractor-Trolley, R/o Village- Gudheli, P.S. Berla, District Durg.
6. Ram Palet Sahu, S/o Vishram Sahu, owner of Tractor-Trolley, R/o Village Gudheli, P.S. Berla, District Durg (C.G.)
7. Hrideaya Ram, S/o Hiraram Yadav, aged 50 years.
8. Lalia Bai, W/o Hridaya Ram.
9. Kumari Man Bai, S/o Bhagat Yadav, aged 8 years.

(Respondent No.9 through its Guardian, maternal grandfather Hridaya Ram Yadav, Respondents No. 7 to 9 R/o Village Tekari, P.S. Abhanpur, District Raipur)

... Respondents

For Appellant	:	Mr. Shivendu Pandya, Advocate.
For Respondent No.4	:	Mr. A.C. Sahu, Advocate.
For Respondent No.5	:	Mr. J.K. Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/01/2017

1. The present appeal under Section 173 of the Motor Vehicles Act, 1998, ('the Act' in short) has been preferred by the Appellant – New India Insurance Company Limited, assailing the award dated 31.10.2001 passed by the Third Additional Motor Accident Claims Tribunal, Raipur, ('the Claims Tribunal' in short) in Claim Case No. 3 of 2000.
2. Vide impugned award dated 31.10.2001, the Claims Tribunal has allowed the application under Section 166 of the Act in favour of Respondent No.1 as well as Respondents No. 7, 8 & 9 who are the wife, father, mother and daughter respectively of the deceased Bhagat Ram Yadav who died in

the vehicular accident in the instant case. While allowing the said application, the Claims Tribunal ordered for payment of compensation in their favour to the tune of Rs.1,42,000/- with simple interest thereon at the rate of 11% from the date of filing of claim application till its realization, fastening the liability to pay the said amount of compensation upon the two Insurance Companies, i.e., New India Assurance Company Limited and National Insurance Company Limited.

3. At the outset, learned Counsel for the Appellant – New India Assurance Company Limited, fairly submits that the impugned award has been duly complied with and the amount of compensation awarded by the Claims Tribunal has also been disbursed to the claimants. He further contends that the sole ground of theirs assailing the impugned award is that, the liability of 50% which has been saddled upon the Appellant is not proper, legal and justified. According to him, there was a clear breach of policy inasmuch as the driver of the Tractor-Trolley which was involved in the instant case, was not having proper valid licence and therefore the liability to pay the amount of compensation could not have been saddled upon the Appellant.

4. However, on perusal of the record what clearly reflects is that, so far as the said contention of the Appellant in respect of the driver of the Tractor-Trolley of not having a valid licence, no evidence whatsoever was adduced by the Appellant to substantiate their contention. In the absence of there being any evidence, this Court cannot accept the contention so raised by the Appellant. In the absence of any proof to the contrary, this Court would accept the finding of fact arrived at by the Claims Tribunal.

5. Thus, the present appeal being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge