NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No.567 of 2006

1. Smt. Lalita Yadav, W/o late Radheshyam Yadav, aged about 22 years.
2. Smt. Raisun Bai W/o Shri Shivnath Yadav, aged about 47 years.
   Both are resident of 44 Number, Podi, PS Podi, Tehsil Baikunthpur, Distt. Korea (CG).

----Appellants

Versus

1. Shri Shivnath Yadav, S/o late Puran, aged about 50 years, R/o 44, Number, Podi, PS Podi, Tehsil Baikunthpur, Distt. Korea (CG).
2. Branch Manager, United India Insurance Co. Ltd. Branch Office, near Ram Mandir, Ambikapur, Distt. Surguja (CG).

---- Respondents

For Appellant	:	Shri AL Singrol, Advocate.
For Respondent No.1	:	Shri Jitendra Shrivastava, Advocate.
For Respondent No.2	:	Shri Dashrath Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

04/08/2017

1. The present is an appeal under section 173 of the Motor Vehicles Act against the award dated 31.08.2006 passed by the Additional Motor Accident Claims Tribunal, Manendragarh, Distt. Korea (in short, the Tribunal) in Claim Case No.32 of 2004. Vide the impugned award, the Tribunal has rejected the claim application of the claimants on the ground that the accident arose on account of rash and negligent driving of the deceased himself and as such he would not fall within the definition of third party.
2. So far as facts are concerned, since the accident, resultant death of deceased and the offending vehicle being insured by the respondent No.2 is not in dispute, this court does not intend to give the factual

details of the case.

3. A perusal of records would show that the policy which had been undertaken by the owner of the vehicle i.e. motorcycle bearing registration No.CG-16-6940 was insured under the package policy where the risk of the owner-cum-driver of the vehicle was covered to the extent of Rs.1,00,000/- only. Since the respondent No.1 was the son of the actual owner, it has to be presumed that the deceased stepped into the shoes of the owner at the time of driving of motorcycle. This being the admitted facts which is not disputed by the counsel for the insurance company, this court has no hesitation in reaching to the conclusion that the claimants shall be entitled for compensation of Rs.1,00,000/- for the insurance policy undertaken by the owner.
4. Thus, it is ordered that the insurance company shall pay an amount of Rs.1,00,000/- as compensation to the claimants for the risk covered under the policy which was undertaken by the respondent No.1 within a period of two months from today.
5. The said amount shall also carry interest @ 9 percent per annum from the date of claim application being filed i.e. 26.07.2004.
6. With the aforesaid observations, the appeal stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder