

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 575 of 2009**

Anil Kumar Sharma S/o Dinesh Kumar Sharma, aged about 38 years,
R/o Yugla Nand Gali, Dabhara Road, Kharsiya, Ps Kharisya, Raigarh.

---- Appellant

Versus

1. Dashoda Bai Wd/o Panchram Patel, aged about 45 years, R/o Bhelwadih.
2. Nand Kumar Patel S/o Pancharam Patel, aged about 25 years.
3. Nanki Prasad Patel, S/o Panchram Patel, aged about 22 years.
All R/o village Pamgarh, Present Address R/o Bhelwadih, Tah. And Thana
Kharsiya, Distt. Raigarh (CG).
4. Santosh Kumar Ojha S/o Jaleshwar Ojha Occupation, Driver R/o Balaipur
Pakoliya At Present Belbhatha, Bhainapara, Thana Kharsiy, Raigarh.
5. The Oriental Insurance Co.Ltd. Branch near Itwari Bazar, Raigarh, Distt.
Raigarh (CG).

---- Respondents

For Appellant	:	Shri RS Patel, Advocate.
For respondent No.1to3	:	Shri Manoj Jaiswal, Advocate.
For respondent No.5	:	Shri AK Athaley, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

09.11.2017.

1. The present is an appeal filed by the owner under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 26.09.2008 passed by the 3rd Additional Motor Accident Claims Tribunal, Raigarh (for short, the Tribunal) in Claim Case No.66 of 2007. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act in a death case has awarded a compensation of Rs.1,52,000/- to the claimants along with interest @ 7.5 percent per annum from the date of application. While passing the award, the Tribunal has applied the principle of Pay and Recovery directing the insurance company to deposit the amount of

compensation and recover the same from the appellant-owner.

2. It is the owner who has preferred this appeal assailing the impugned award.
3. The contention of the appellant is that the deceased in the instant case would fall within the ambit of “any person” for the purpose of insurance company to indemnify the owner.
4. This submission of the appellant-owner is not sustainable on two grounds. Firstly, the claimants i.e. son of deceased has stated that his father, the deceased, was travelling in the Tractor after payment of fare to the driver. Further, the driver in the instant case though has denied the factum of receiving any fare, but does not depose of the deceased being an employee, labourer or person engaged for the agricultural work by the owner.
5. In the light of the above factual matrix of the case, this court is of the opinion that no strong case is made out by the appellant-owner to interfere with the impugned award.
6. The appeal thus being devoid of merit deserves to be and is accordingly rejected.

Sd/-

(P.Sam Koshy)
Judge