NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 302 of 2017

Reliance General Insurance Company Limited Through: Its Legal Officer, Reliance General Insurance Company, (Present And Correct Address)- National Corporate House, 5th Floor, Shop No.516, Opposite Maruti Business Park, G.E.Road, Raipur, Tahsil And District Raipur, Chhattisgarh ....(Insurer).

---- Appellant

Versus

1. Taran Bai W/o Kamal Koshle, Aged About 35 Years
2. Tikam S/o Kamal Koshle, Aged About 12 Years
3. Bhushan S/o Kamal Koshle, Aged About 9 Years
4. Ravinder S/o Kamal Koshle, Aged About 5 Years
5. Ku. Pushpa D/o Kamal Koshle, Aged About 15
6. Ku. Dewaki D/o Kamal Koshle, Aged About 13 Years
7. Bhagela S/o Late Shivcharan Koshle, Aged About 70 Years
   Respondents No.2 to 6 being minor represented Through Mother Smt. Taran Bai all R/o Langa, P.O. Bhainsa, P.O. Bhainsa, Distt. Raipur, Chhattisgarh.
8. Mohan Lal S/o Lakha Lal, R/o Amodi, P.S. Arang, Distt. Raipur, Chhattisgarh ....(Driver)
9. Smt. Leela Bai @ Aamroteen Satnami W/o Late Lal Ji, R/o Mahamaya Para, Arang, P.O. And Thana Arang, Distt. Raipur, Chhattisgarh .... (Owner).

---- Respondents

For Appellant	:	Shri Sourabh Sharma, Advocate.
For Respondents No.1to6		Ms. Arpana Singh, Advocate.
For respondent No.9	:	Shri CK Sahu, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

04/07/2017

1. The present appeal has been filed against the award dated 17.11.2016 passed by the IIIrd Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.360 of 2013.
2. Brief facts of the case is that, the Husband of respondent No.1 and father of respondents No.2 to 6 met with an accidental death on

16.02.2011 while he was traveling in TATA Magic passenger vehicle bearing registration No.CG-04-T-7403. The claimants had filed claim application for compensation under Section 163-A of the Motor Vehicles Act. After the evidence were recorded and the pleadings were complete, the Tribunal reached to the conclusion that the claimants are entitled for compensation to the tune of Rs. 3,93,500/- along with interest @ 7.5 percent per annum from the date of application.

3. The challenge to the award by the appellant is on the solitary ground of liability. According to the appellant, the liability cannot be fastened upon the insurance company on account of there being a clear breach of insurance policy as at the relevant point of time the respondent No.8-Driver was not having valid and effective driving license. According to him, the license which the driver at the time of accident was having was that of a Light Motor Vehicle (LMV) whereas, the vehicle which was being driven was not LMV, but was a passenger carrying vehicle (PCV). Thus, prayed that the award impugned be modified to the extent that insurance company may be discharged of its liability.

4. Counsel for the claimants however opposing the appeal submits that it is a case where the driver at the relevant point of time did have a license and the license was for a light motor vehicle and the vehicle involved in the accident also is light motor vehicle as it was a small passenger carrying vehicle. The offending vehicle indisputably is a light motor vehicle for all practical purposes if we take into

consideration the size, the unladen weight etc. Therefore, the Tribunal cannot be said to have committed an error of law while saddling the liability upon the insurance company.

5. Having considered the rival contentions put forth on either side and on perusal of record, this court is also of the view that the Tribunal has not committed any error of law while reaching to the conclusion and in fastening the liability upon the insurance company as admittedly the driver at the relevant point of time was having LMV license which was valid from 28.02.2010 to 27.02.2015 i.e. during the relevant period. The vehicle involved was also light vehicle i.e. TATA Magic which is a small vehicle used for only carrying passengers. The said vehicle also falls within the category of light motor vehicle in laden capacity and weight.

6. In view of the above factual matrix of the case and also taking into consideration the ratio of law laid down by the Supreme Court in cases of National Insurance Company Limited Vs. Annappa Irappa Nesaria, 2008(3)SCC464 and also in case of S. Iyyapan Vs. United India Insurance Co.Ltd.,2013(7)SCC 62, this court is of the opinion that the appellant has failed to make out a strong case calling for interference of the order under challenge.

7. Thus, the appeal being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

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