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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1030 OF 2017

Shriram General Insurance Company Limited, Plot No.1, E-8, EPIP RIICO, Industrial Area, Sitapur, Jaipur, Rajasthan, 303022

… Appellant

versus

1. Sunaina Singh, Wd/o Late Bheem Singh, aged about 30 years
2. Smt. Rashmi Devi, Wd/o Late Baijnath Singh, aged about 60 years

Caste- Mar, Occupation- Agriculture and labour, both are R/o of Village- Maharajganj, Thana & Tahsil- Balrampur, District Balrampur (C.G.)

3. Ram Krishna, S/o Ramcharan Kumbe, aged about 25 years, occupation-Driver, R/o Katkona Ward No.5, Thana- Patna, District Koriya (C.G.)
4. Bhanu Prakash, S/o Kamal Sah, occupation- Vehicle Owner, R/o Harijan Para (Hara Para), Ward No.5, House No.23, Baikunthpur, District Koriya (C.G.)

… Respondents

For Appellant : Mr. Sachin Singh Rajput, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/11/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, preferred by the appellant-insurance company, assailing the award dated 28.3.2017 passed by the Second Additional Motor Accident Claims Tribunal, Ramanujganj, District Surguja (Ambikapur), in Claim Case No.02/2015.

2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.8,01,000/- in favour of respondents no. 1 & 2-claimants with interest thereon at the rate of 9% per annum from the date of claim application and has fastened the liability for payment of compensation upon the appellant-insurance company indemnifying the respondent no.3-driver and respondent no.4-owner.

3. The present appeal has been filed by the appellant-insurance company challenging the liability which has been fastened upon it.

4. Learned counsel appearing for the appellant-insurance company has raised two grounds for challenging the impugned award. First being the driver of the vehicle involved in the accident did not have a valid licence at the time of accident and secondly, the compensation awarded by the learned Tribunal being on the higher side.

5. So far as the first issue raised is concerned, perusal of record would show that the vehicle involved in the accident was a Max Pickup, bearing registration no. UP64-H-1159, which undisputedly is a vehicle which would fall within the category of a Light Motor Vehicle, except for the fact that it is used for commercial transport purposes. The other admitted fact also is that the driver of the vehicle had a valid licence to drive a Light Motor Vehicle. This issue raised by the insurance company is no longer *res integra*, for the reason that the said issue stands squarely covered from a recent Larger Bench's decision of the Hon'ble Supreme Court in the case of **Mukund Dewangan** v. **Oriental Insurance Company Limited, AIR 2017 SC 3668**, as also the decision of the Hon'ble Supreme Court in the case of **Santlal** v. **Rajesh & Others**, **AIR 2017 SC 4054**.

6. So far as the quantum of compensation is concerned, the deceased in the instant case, named, Bheem Singh, aged about 50 years, was working as a labourer and that the learned Tribunal while computing the compensation has accepted his monthly income at Rs.3000/- which under no circumstances can be said to be excessive or on the higher side, particularly considering the fact that the accident in the instant case is of the year 2014. So also, the compensation awarded under the conventional heads also seems to be in accordance to the decision of the Hon'ble Supreme Court in the case of **Rajesh and Others** v. **Rajbir Singh and Others**, **2013 (9) SCC 54**.

7. Thus, for all the aforesaid reasons, this Court does not find any strong case to be made out by the appellant-insurance company calling for interferece with the impugned award.

8. The appeal of the insurance company thus being devoid of merits the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/