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HIGH COURT of CHHATTISGARH AT BILASPUR

Misc. Appeal (C) No. 1182 of 2017

The Oriental Insurance Company Limited through Divisional Manager, the Oriental Insurance Co. Ltd., Madina Building, Jail Road, Raipur, District Raipur, Chhattisgarh

---- Appellant

Versus

1. Smt. Surekha Sahu W/o late Ram Prasad Sahu, aged about 28 years, R/o Bada Ashok Nagar, Bazar Para, near Durga temple, Sant Kabir Das Ward No.3, Raipur, District Raipur, Chhattisgarh, Permanent R/o Cheej Gaon, P.S. Than Khamhariya, District Bemetara, Chhattisgarh
2. Ram Sanjeevan @ Durgesh S/o late Ram Prasad Sahu, aged about 11 years, minor through natural guardian mother Smt. Surekha Sahu W/o Late Ram Prasad Sahu, R/o Bada Ashok Nagar, Bazar Para, near Durga temple, Sant Kabir Das Ward No.3, Raipur, District Raipur, Chhattisgarh, Permanent R/o Cheej Gaon, P.S. Than Khamhariya, District Bemetara, Chhattisgarh
3. Ku. Kusum @ Pooja D/o late Ram Prasad Sahu, aged about 9 years, minor through natural guardian mother Smt. Surekha Sahu W/o Late Ram Prasad Sahu, R/o Bada Ashok Nagar, Bazar Para, near Durga temple, Sant Kabir Das Ward No.3, Raipur, District Raipur, Chhattisgarh, Permanent R/o Cheej Gaon, P.S. Than Khamhariya, District Bemetara, Chhattisgarh
4. Ku. Jyoti @ Dolly D/o late Ram Prasad Sahu, aged about 5 years, minor through natural guardian mother Smt. Surekha Sahu W/o late Ram Prasad Sahu, R/o Bada Ashok Nagar, Bazar Para, Near Durga Temple, Sant Kabir Das Ward No.3, Raipur, District Raipur, Chhattisgarh, Permanent R/o Cheej Gaon, P.S. Than Khamhariya, District Bemetara, Chhattisgarh
5. Bindu Sahu S/o late Aaju Ram Sahu, aged about 65 years, R/o Bada Ashok Nagar, Bazar Para, near Durga temple, Sant Kabir Das Ward No.3, Raipur, District Raipur, Chhattisgarh, Permanent R/o Cheej Gaon, P.S. Than Khamhariya, District Bemetara, Chhattisgarh
6. Smt. Bisni Bai W/o Bindu Sahu, aged about 64 years, R/o Bada Ashok Nagar, Bazar Para, near Durga temple, Sant Kabir Das Ward No.3, Raipur, District Raipur, Chhattisgarh, Permanent R/o Cheej Gaon, P.S. Than Khamhariya, District Bemetara, Chhattisgarh

---- Respondents

For Appellant	:	Mr. H. P. Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/08/2017

Challenge in the present appeal is to the award dated 08.05.2017 passed by the 5th Additional Motor Accident Claims Tribunal, Raipur (CG) in Claim Case

No.585/2016. Vide the impugned award, in a death case under Section 163A of the MV Act, the Tribunal has awarded compensation of Rs.1,00,000/- under the personal accident claim to the claimants i.e. respondents 1 to 6.

2. The sole ground of challenge in the present appeal is the liability of payment of compensation. Counsel for the appellant submits that the driver of the offending vehicle at the relevant time was not having a valid licence or at least the same has not been produced by the claimants. In the absence of the licence being produced during the proceeding before the Tribunal, the Insurance Company could not be fastened with the liability of payment of compensation.

3. A perusal of the record would show that the Tribunal in the present case has considered this aspect and found that during the course of recording of evidence of the witness of the Insurance Company namely Ritesh Ku. Ranhgadale, the administrative Officer of the Insurance Company, he has admitted the issuance of the policy valid from 10.11.2015 to 09.11.2016 during which period the accident occurred. This witness further in his evidence has accepted the fact that at the time of issuance of the policy, the driver had a valid licence.

4. In the given factual circumstances, this Court does not find any good reason to interfere with the finding of the Tribunal. It is all the more necessary to mention that the driver had died in the said accident and therefore it would not have been practically possible for the claimants to bring such a document before the Tribunal. Further, the Insurance Company having accepted the fact of issuance of a policy when the driver had a valid licence, the Insurance Company cannot be exonerated of its liability of payment of compensation.

5. At this juncture, counsel for the appellant also raised a contention that undisputedly on the date of issuance of policy, the driver had a valid licence but the accident occurred after about 10 months from the date of issuance of the policy and therefore, there is all possibility of the licence having got lapsed in the intervening period. This aspect also is a fact which should have been proved by the Insurance Company. When they accept that at the time of issuance of policy the driver had a valid licence, they should have also ensured whether the validity of the licence was getting expired during the validity of the insurance policy period or not. The Insurance Company has not led any evidence in this regard. Thus, the ground raised stands negatived.

6. The appeal thus being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Bhola