

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 865 of 2014

- Smt. Rakeshwari Kosma, W/o Umakant Kosma Aged About 30 Years R/o Village Salhe Chowki Kachche District- North Bastar Kanker C.G., Presently-R/o Bhanupratappur, P.S. Bhanupratappur, Distt. North Bastar Kanker C.G.

---- Appellant

Versus

1. Jitendra Kumar Anchal S/o Jageshwar Anchala Aged About 23 Years R/o Salhe, P.S. Dondi, Distt. Balod C.G. (driver of the vehicle)
2. Pushkar Ram Bhaisara S/o Sobharam Bhaisara Aged About 30 Years R/o Janjalipara, Koror, P.S. Koror, Distt. Kanker C.G. (owner of the vehicle)
3. The I.C.I.C.I. Lombard General Insu.Co.Ltd. Branch Office- Lal Ganga Shopping Mall, Third Floor, G.E. Road, Raipur, Distt. Raipur C.G. (insurer)
4. The National Insu.Co.Ltd. Branch Office- Near R.M.S. Office, Jagdalpur, Distt. Bastar C.G. (insurer of claimant motor cycle)

---- Respondent

For Appellant	:	Shri AL Singroul, Advocate.
For Respondent No.1	:	Shri Parag Kotecha, Advocate.
For Respondent No.2	:	None though served.
For Respondent No.3	:	Shri Tarkeshwar Nande, Advocate.
For Respondent No.4	:	Shri Anil Gulati, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board By Justice Pritinker Diwaker

01/08/2017

This appeal arises out of the award dated 8.5.2014 passed by Motor Accident Claims Tribunal, South Bastar, Kanker in Claim Case No.36/2013 whereby in an injury case awarding compensation of

Rs.8,000/-in favour of the claimant.

02. Brief facts of the case are that on 30.9.2012 when the appellant with her husband was going on motorcycle bearing registration No. CG 19B/7530 which was being ridden by her husband, the same was dashed by offending vehicle motorcycle as a result of which the appellant and her husband suffered injuries. At the time of accident the offending vehicle was being ridden by respondent No.1.

03. A claim case was filed by the claimant claiming compensation of Rs.2,64,076/- under various head, inter alia, pleading that the offending vehicle was being ridden by respondent No.1 in a rash and negligent manner resulting in the accident and injuries to her.

04. The vehicle of the appellant was duly insured with respondent No.4 National Insurance Company whereas the offending vehicle was duly insured with respondent No.3 ICICI Lombard General Insurance Company. The respondents have contested the case on general grounds. It was pleaded by insurance company of the offending vehicle i.e. respondent No.3 that rider of the offending vehicle was not having licence and as such, liability cannot be fastened upon it.

It is relevant to note that though the appellant had pleaded suffering of various injuries on her body but treating doctor has not been examined.

05. The Tribunal by the impugned award has awarded total compensation of Rs.16,000/- in favour of the claimant holding that out of the said amount, 50% shall be paid by respondents No.1 & 2 and remaining 50% by respondent No.4 National Insurance Company.

06. Counsel for the appellant submits that the appellant was a pillion rider and her case comes within the category of composite negligence and respondent No.4 has therefore to satisfy the entire claim. He further submits that case of the appellant is also maintainable in respect of both the wrongdoers.

07. Considering the facts and circumstances of the case, in particular the fact that no treating doctor has been examined and the injury suffered by the claimant has not been duly proved, we are of the view that the compensation awarded by the Tribunal is just and proper calling for no interference by this Court. Accordingly, the appeal is dismissed.

Sd/

(Pritinker Diwaker)

Judge

Sd/

(R.P. Sharma)

Judge