NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1320 of 2017

Reliance General Insurance Company Limited Through Its Legal Manager, Reliance General Insurance Company Limited Corporate House, 3rd Floor, Opposite Jhabuwa Tower, 169 R N T Marg, Indore, Madhya Pradesh.

---- Appellant

Versus

1. Smt. Sarita Dewangan W/o Om Prakash Dewangan, Aged About 30 Years
2. Komal Dewangan S/o Om Prakash Dewangan, Aged About 7 Years
3. Jeet Dewangan S/o Om Prakash Dewangan, Aged About 3 Years
4. Smt. Saato Bai Dewangan Wd/o Samaru Ram Dewangan, Aged About 60 Years

   Respondents No.2 & 3 being Minor Represented Through Mother Respondent No. 1

   All R/o Behind Mahamaya Mandir Ward No. 18, Newra, Thana Newra, District Raipur, Chhattisgarh.
5. Ganga Prasad Banjare S/o Sadhram Banjare, R/o Village Kheli, Thana Suhela, District Raipur, Chhattisgarh.
6. M/s Mata Road Carrier, Through Director / Manager, M/s. Mata Road Carrier, Shop No. 2, Jain Complex, Tatibandh, Raipur, Thana Amanaka, Raipur, District Raipur, Chhattisgarh.

----Respondents

For Appellant	:	Mr. Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25/09/2017

1. Heard on I.A. No.1, which is an application for condonation of delay. For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 121 days in filing the appeal stands condoned.

2. Present is an appeal by the Insurance Company challenging the award dated 16.02.2017, passed by the 5th Additional Motor Accidents Tribunal, Raipur, Chhattisgarh, in Claim Case No. 19/2015.

3. Vide the said impugned award, the Tribunal in a proceeding under

Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.7,83,000/- with interest @ 9% per annum. There are two grounds raised by the Insurance Company for assailing the award, firstly being that the driver of the offending vehicle did not have a fake license, and second was as regards the fact that the cheque issued towards the payment of premium has got dishonoured on the ground of insufficient fund and therefore the Insurance Company was not liable to indemnify the owner.

4. Perusal of the record show that it is a second round of appeal by the Insurance Company. First round of appeal was decided on 04.08.2011 whereby in MAC No. 479/2011 at the instance of Insurance Company the matter was remitted back to the Tribunal, giving the Insurance Company the chance to lead the fresh evidence, so as to prove the grounds raised by the Insurance Company.

5. However, in spite of the opportunity being granted, the Insurance Company has failed to lead any evidence to substantiate their contentions. In the absence of any evidence led on behalf of the Insurance Company, this Court does not find any strong case made out to interfere with the impugned award. The appeal thus being devoid of merit, the same stands rejected.

6. At this juncture the counsel for the appellant submits that in an execution proceedings attachment warrants have already been issued. Considering the fact that the appeal is being decided today, the Insurance Company is granted 15 days time from today to deposit the amount, within which time the attachment proceedings should not be enforced. In the event, if the payment is not made within 15 days, the attachment proceedings can be proceeded further with. The appeal thus stands dismissed with the above observations.

7. Certified Copy today.

Sd/-
(P. Sam Koshy)
Judge

Ved