NAFR

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 805 of 2011

The Oriental Insurance Co. Ltd. Nagar Ghadi Chowk, Main Road, Dhamtari, Distt. Dhamtari (CG) through its Divisional Manager.

---- Appellant

Versus

1. Nasruddin S/o late Shri Ali Mohd. Aged about 60 years.
2. Smt. Kulsum Khan W/o Mohd. Nasruddin, ageda about 50 years.
   Both R/o Ward No. 9, Subhashpara, Bhanupratappur, P.S. and Tahsil Bhanupratappur, Dist. North Bastar Kanker (CG).
3. Ramratan, aged about 45 years, S/o Parauram Nirmalkar,
4. Javri Lal S/o Pusaram Tank, aged about 38 years.
   Both R/o Village and Post Sambalpur, P.S. and Tahsil Bhanupratappur, Distt.-North Bastar, Kanker (CG)

---- Respondents

For Appellants	:	Shri Ratan Pusty, Advocate.
For respondent No.1&2	:	Shri Rakesh Thakur, Advocate.
For respondent No.4	:	Shri JK Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

10.11.2017.

1. The present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 28.02.2011 passed by the Additional Motor Accident Claims Tribunal (FTC), Bhanupratappur (for short, the Tribunal) in Claim Case No.39 of 2010. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act in a death case has awarded a compensation of Rs.2,50,000/- to the claimants along with interest @ 7 percent per annum from the date of application. The liability of payment of compensation has been fastened upon the insurance company.
2. Learned counsel for the appellant submits that it is a case where there

were other connected claim cases arising out of the same accident and where the Tribunal has exonerated the insurance company except in the present case. Thus, this finding of the Tribunal is erroneous as the status of the deceased in the instant case namely Ku. Reshma was similar to the deceased persons in other three claim cases and therefore the Tribunal should not have taken a different stand. It was further contended that the offending vehicle at the time of accident was running in total breach of policy conditions inasmuch as the vehicle was being plied with more than 20 persons on board, thus the insurance company should have been exonerated of its liability.

3. However, a perusal of record would show that the contention of claimants before the Tribunal was that the deceased was working in the said vehicle as a Hamal and that the owner of the vehicle had also duly insured the vehicle covering the risk of 4 Hamals. Further, so far as breach of policy conditions is concerned, a perusal of records would show that the insurance company has not led any evidence in this regard to substantiate their contention. They solely intend to rely upon the document which have come on record.

4. In the given factual matrix of the case particularly when it is undisputed that policy which was issued covering the risk of 4 Hamals in addition to driver, helper and conductor and that the claim case was filed claiming the deceased to be working as Hamal in the offending vehicle, this court does not find any good ground to interfere with the impugned award.

5. The appeal thus being devoid of merit deserves to be and is hereby dismissed.

Sd/-

(P.Sam Koshy)
Judge

inder