NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.902 of 2010

1. Lokesh Gupta S/o Vishnu Prasad Gupta, aged about 18 years, R/o Amatalab Road, Ramsagarpara, Dhamtari, Tahsil and District Dhamtari (C.G.).
2. Vishnu Prasad Gupta S/o Late Shri Uday Ram Gupta, aged about 45 years, Occupation Service posted as Patwari, R/o Amatalab Road, Ramsagarpara, Dhamtari, Tahsil and District Dhamtari (C.G.).

---Appellants

Versus

1. Smt.Sunita Dewangan Wd/o Bhupendra Dewangan, aged about 30 years.
2. Lokendra Dewangan S/o Bhupendra Dewangan, aged about 11 years, through Natural guardian mother Smt. Sunita Dewangan.
3. Shambhulal Dewangan S/o Lomash Dewangan, aged about 52 years.
4. Smt.Ansuiya Dewangan W/o Shri Shambhulal Dewangan, aged about 48 years.

   All re by caste Koshta, R/o Amatalab Road, Ramsagarpara, Dhamtari, Tahsil and District Dhamtari (C.G.).

---Respondents

For the appellants	:	Shri Vivek Tripathi on behalf of Shri Awadh Tripathi, Advocate.
For Insurance Company	:	Shri Sudheer Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/11/2017

1. The counsel for the appellants in the instant case had filed an application - I.A.No.2 on 28/06/2010 for impleading the Oriental Insurance Company Limited as a necessary party to the appeal.

2. Not opposed by the counsel for the Insurance Company.

3. Accordingly, I.A.No.2 is allowed.

4. Let necessary amendments be carried out during the course of the day itself.

5. Perusal of the record would show that, the vehicle involved in the accident was duly insured with the Oriental Insurance Company Limited, but the Company for some reason was not made a party before the Tribunal and thus, the Insurance Company has not been able to contest the case. Since the Insurance Company was not a party, it could not produce any evidence in support of its contentions, if any.

6. Given the facts and circumstances of the case this Court is of the opinion that, the impugned award in the present position would not be sustainable and the same deserves to be set aside.

7. Accordingly, the matter is remitted back to the Tribunal with liberty to the appellants to move an appropriate application impleading the Insurance Company as a party and thereafter to proceed further and with liberty to the Insurance Company also to file reply and to produce the evidence in rebuttal, if any.

8. Since the parties are represented before this Court, let the parties appear before the Tribunal admittedly on 09/01/2017.

9. The registry is directed to ensure that, the record is sent back to the Tribunal at the earliest so that it reaches there before the next date fixed by this Court.

10. This Court has not expressed any opinion on its merits. The Tribunal shall be free to decide the matter afresh. Considering the seniority of the

matter it is expected that, the Tribunal shall proceed with the matter on priority basis and decide the same as expeditiously as possible.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit