

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1226 of 2007**

The Oriental Insurance Company Ltd. through Branch Manager, Hotel
Maharaja Complex, N.H.-7, Rewa (MP)

---- Appellant**Versus**

1. Fulsingh S/o late Raghunath Singh, resident of Ward No.4,
Manendragarh, District Korea, (CG)
2. Smt. Suman Singh W/o Shri Rajendra Singh @ Rabbusingh, resident of
Barder Road, Chakghat, District Rewa (MP)

---- Respondents

For Appellant	:	Shri Sudhir Agrawal, Advocate
For Respondent No.1	:	Smt. Usha Chandrakar, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29/11/2017**

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act challenging the award dated 26.06.2007 passed by the 1st Additional Motor Accident Claims Tribunal, Manendragarh, District Korea (CG) in Motor Accident Claim Case No. 14/2005. Vide the impugned award, the Tribunal has awarded compensation of Rs.1,76,700/- and also imposed penal interest @ 12% per annum if the amount is not deposited within a period of two months.

2. Contention of the counsel for the appellant is that the Tribunal has erred in not appreciating the fact that it is a case where five buffaloes and one cow died in the accident were not insured and that no premium had been received by the Insurance Company covering the risk of the cattle being transported by the offending vehicle. He submits that the ownership of the cattle could not

be ascertained and therefore, awarding of compensation to the claimant is not justified and the same deserves to be set aside. Further challenge by the Insurance Company is the penal interest of 12% which has been imposed if the compensation amount is not deposited within two months from the date of award.

3. Having gone through the record it reflects that the policy issued in the instant case was a comprehensive policy and the amount of compensation awarded is only Rs.1,76,700/- in respect of the death of 6 cattle. Further what also reflects is that the Insurance Company has already deposited an amount of rupees one lakh as per the order of this Court before the Tribunal and the amount left is only Rs.76,700/-.

4. Taking note of the fact that the appeal is of the year 2007 and the claimant had lost 6 of his cattle in the year 2004, this Court is not inclined to interfere with the appeal at this juncture leaving the issue to be decided in some other appropriate case. So far as the penal interest is concerned, this Court is of the opinion that awarding of penal interest was not just and the same is accordingly set aside/quashed. As a consequence, the claimant shall be entitled for the normal interest @ 6% per annum on the awarded amount from the date of application.

5. With the aforesaid modification in the impugned award so far as the penal interest part is concerned, the appeal stands disposed of.

**Sd/-
(P. Sam Koshy)
JUDGE**