

HIGH COURT OF CHHATTISGARH AT BILASPUR**Misc. Appeal (C) No. 1088 of 2017**

Cholamandalam General Insurance Company Limited near Narrow Railway Line,
Opposite L. I. C. Office, Pandri Road, Raipur, Police Station Pandri Tahsil and
District Raipur (Chhattisgarh)....(Insurer of Vehicle Bolero No. CG-04- H B-1703)

---- Appellant

Versus

1. Smt. Sangeeta Bai Wd/o late Suresh Nishad, aged about 22 years, R/o Naharpara, near Sabji Bazar, Santoshi Nagar, Raipur, District Raipur (Chhattisgarh).
2. Shubham S/o late Shri Suresh Nishad, aged about 8 years, minor hence represented through respondent no. 1 Smt. Snageeta Bai, R/o Naharpara, near Sabji Bazar, Santoshi Nagar, Raipur, District Raipur (Chhattisgarh).
3. Chaitram Nishad, aged about 50 years, R/o Naharpara, near Sabji Bazar, Santoshi Nagar, Raipur District Raipur (Chhattisgarh).
4. Smt. Nirmala Bai W/o Shri Chaitram Nishad, aged about 47 years, R/o Naharpara, near Sabji Bazar, Santoshi Nagar, Raipur District Raipur (Chhattisgarh)..... (Claimants).
5. Shrawan Kumar Verma S/o Dukalu Ram, aged about 27 years, R/o Village Kurul, Thana Saja, District Durg (Chhattisgarh).....(Driver of Vehicle Bolero No CG-04- H B-1703).
6. Khilleshwar Kumar Sahu R/o House No. 34, Pole No. 02, Urla, District Raipur (Chhattisgarh).....(Owner of Vehicle Bolero No CG-04- H B-1703).

---- Respondents

For Appellant	:	Shri Rohitashav Singh, Advocate.
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Hon'ble Shri Justice P. Sam Koshy**Judgement on Board**

16/08/2017

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 18.05.2017 passed by the Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.49 of 2012.

2. The solitary ground of challenge by the Insurance Company is that the claimants have not been able to prove the accident before the Tribunal. According to the counsel for the appellant, in the claim application, there is a over writing on the date of accident mentioned therein. The typed version shows the date of accident to be 18.01.2011 whereas the same has been struck out and a different date i.e. 15.09.2011 has been inserted. Counsel for the appellant submits that there has been no document produced by the claimants before the Tribunal to show that there was an accident which occurred on 18.01.2011. According to the counsel for the

appellant, the claimants have also admitted in their cross examination that the date of accident being 15.09.2011. He submits that even in the FIR which has been produced before the Court below during the evidence, the date of accident was 18.10.2011 and that there was no claim case arising out of the accident that occurred on 18.10.2011. Counsel for the appellant further submits that the FIR was also lodged belatedly and that the vehicle involved in the accident was seized much after the accident which further strengthens the stand of the Insurance Company of the accident not having been sufficiently proved before the Tribunal.

3. Having heard the counsel for the appellant and on perusal of the documents available along with the memo of appeal what is undisputed is the registration of an FIR in respect of the accident. Even if we ignore the date of accident, the accident is not in dispute and the deceased succumbing to the injuries from the accident is also not in dispute. There appears to be only a discrepancy so far as the date of accident is concerned. Further, what also cannot be lost sight is the undisputed fact that a criminal case was lodged against the driver of the offending vehicle and in the said criminal case, it is the same FIR which has been lodged wherein the name of the deceased is the same on whose behalf the present claim case has been filed.

4. In the aforesaid factual scenario, this Court is of the opinion that only because of there being a discrepancy in the date of accident, the Claims Tribunal cannot be faulted with its finding as there are other relevant evidences particularly the FIR, the initiation of a criminal case against the driver of the offending vehicle and the contents of the FIR showing the accidental death of the deceased.

5. Thus, the present appeal being devoid of merit deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge