

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1131 of 2017

Branch Manager Magma H. D. I. General Insurance Company Limited,
Branch Office, D. V. Plaza, 5th Floor, Rajbandha Maidan, Raipur Near
Navbharat Press, Thana And Tahsil Raipur District Raipur Chhattisgarh

---- Appellant

Versus

1. Mo. Aklim S/o Mo. Ishhak, Aged About 35 Years Profession Agriculture
 2. Smt. Khurshida Khatun W/o Mo. Aklim Aged About 26 Years Profession House Wife
- Both are R/o Village Takiya, Post Parsa, Thana And Tahsil Ambikapur District Sarguja Chhattisgarh
3. Harun Rasid S/o Mo. Yusuf Aged About 40 Years R/o House No. 164, Agariya, Southpara, Ramnagar, Tahsil Wadrafnagar, Thana Basantpur District Sarguja Chhattisgarh

---- Respondents

For Appellant	:	Mr. Rohitasva Singh, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/08/2017

1. Present is an appeal by the Insurance Company assailing the award dated 19.05.2017 passed by the Motor Accident Claims Tribunal, Ambikapur, District Sarguja (C.G.) in Claim Case No.215/2016. Vide the impugned award in the proceedings under Section 166 of the Motor Vehicle Act, the Tribunal in a death has awarded compensation of Rs.8,12,992/- with interest of 7% per annum. The ground of challenge by the Insurance Company is on the aspect that the deceased at the time of the accident was traveling as a gratuitous passenger and who was not covered under the policy, which was issued by the appellant.
2. The contentions of the appellant is that the Insurance Company has been able to sufficiently prove before the Tribunal that the deceased was not an employee on the said vehicle and that he was traveling in the said vehicle as a gratuitous passenger. It was also the contentions of the appellant that the deceased since was aged

around 16 years he could not have been under employment. Further the driver of the owner of the said vehicle have not stated before the Court that the deceased was an employee of the owner of the said vehicle. However, perusal of the records would show that the case of the claimants and the evidence of the claimants it has been stated that the deceased at the relevant point of time was working as a Cleaner on the said vehicle.

3. This statement of the claimants has not been rebutted, nor has it been sufficiently disproved by the appellant/Insurance Company from their cross examination or any other evidence.
4. The Insurance Company has also not put such question to the driver and the owner of the vehicle during their evidence before the Court below so as to establish this fact as to whether the deceased was an employee of the owner of the vehicle or not.
5. In view of the aforesaid factual matrix of the case this Court is of the opinion that finding of the Tribunal cannot be faulted with and that no strong case has been made out and calling for interference in the impugned order. The appeal thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved