

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 1273 of 2017**

The Oriental Insurance Company Limited, Branch Office, Korba,  
District Korba Chhattisgarh,

**----Appellant**

**Versus**

1. Mahendra Kumar Sahu S/o Jayram Sahu, Aged About 42 Years
2. Rupa Bai Sahu, W/o Mahendra Kumar Sahu, Aged About 40 Years  
Both are by Caste Teli, R/o Village Lachhanpur, Tashil Janjgir, District  
Janjgir Champa Chhattisgarh
3. Babulal Thakur, S/o Devi Prasad Thakur, Aged About 60 Years R/o  
Village Bhanshanaka, Jhansi Road, Banaket, District Sagar Madhya  
Pradesh.  
At Present Address Shanti G. D. Ispat & Power Pvt. Ltd. Champa,  
Tahsil and PS Champa, District Janjgir Champa Chhattisgarh
4. The Director Shri Anand Khemka, Shanti G. D. Ispat & Power Pvt.  
Ltd. Champa, Address Mahuda, Tashil Champa, District Janjgir  
Champa, Chhattisgarh

**---Respondents**

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| For Appellant | : | Mr. Anumeh Shrivastava, Advocate |
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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**12/09/2017**

1. The present is an appeal under Section 173 of the Motor Vehicles Act. Vide the said appeal by the Insurance Company, the challenge is to the impugned award dated 17.05.2017, passed by the Motor Accident Claims Tribunal, Janjgir-Champa, in Motor Accident Claims Case No. 18/2016. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Act has, allowing the application ordered for payment of Rs.5,10,000/- as compensation with interest @ 8% per annum.
2. The challenge to the award is, firstly, the fact that the owner of the motor cycle which was being driven by the deceased has not been made a party to the claim petition, thus the claim petition suffered non-joinder of the party, secondly, there is a discrepancy in the name of the owner in the registration book and permit of the offending Truck involved in the accident when compared to the policy, which

was issued in different name, and thirdly, it was contended that the offending truck at the relevant point of time did not have a valid permit or a fitness certificate.

3. Perusal of the records would show that the Insurance Company in the instant case has not led any evidence before the Tribunal. In the absence of any evidence led by the Insurance Company it cannot be said that the Insurance Company has been able to establish that the contentions which has been pleaded by them is established or proved. Unless the Insurance Company discharges its responsibility of proving the allegations that it made in the written statement, the contentions put forth by the Insurance Company would not be sustainable.
4. Thus in the opinion of this Court there is no merit in the appeal worth admitting the same, and thus the appeal deserves to be and is accordingly dismissed.

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

Ved