NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1349 of 2017

Branch Manager, The New India Assurance Company Limited SADA Complex, Transport Nagar, Korba, Chhattisgarh.

---- Appellant

Versus

1. Bishok Kumar Ratre S/o Barsan Ratre Aged About 35 Years R/o Village Dhourbhatha, Police Station Hirri, District Bilaspur, Chhattisgarh.
2. Kanhai Singh S/o Satyanarayan Singh Rajput Aged About 26 Years R/o Village Lacchanpur, Outpost Jhariya, Police Station Janjgir, District Janjgir- Champa, Chhattisgarh
3. Satyanarayan Singh Rajput R/o Village Lacchanpur, Outpost Jhariya, Police Station Janjgir, District Janjgir- Champa, Chhattisgarh.

----Respondents

For Appellant	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/10/2017

1. Heard on I.A. No.1, which is an application for condonation of delay. For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 65 days in filing the appeal stands condoned.

2. Present is an appeal under Section 173 of the Motor Vehicles Act, 1988 filed by the Insurance Company, assailing the award dated 17.05.2017, passed by the Additional Motor Accident Claims Tribunal, Bilaspur, in Claim Case No. 45/2016.

3. Vide the said impugned award, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, has granted a compensation of only Rs.5,03,229/- to the claimant with interest thereon @ 7.5% per annum, from the date of the claim application.

4. Learned counsel for the Insurance Company assails the impugned award on the ground that the driver of the offending vehicle, who had a licence only to driver the “Light Motor Vehicle”, did not have a proper endorsement from the concerned Regional Transport Office

to drive the commercial passenger vehicle. Likewise, the vehicle at the time of accident was overloaded, inasmuch as there were about 15 passengers in the vehicle at the time of accident and since the vehicle was being run beyond the permissible sitting capacity, the Insurance Company should be exonerated of its liability. He also contented that the vehicle involved in the accident also did not have proper permit.

5. However, on perusal of the record, it reflects that the Insurance Company has not adduced any evidence to disprove the claim of the claimant. So far as the driver not having proper endorsement to drive the vehicle is no longer a ground available for the Insurance Company in the light of a Larger Bench's decision of the Hon'ble Supreme Court in the case of ***“Mukund Dewangan v. Oriental Insurance Company Limited”, AIR 2017 SC 3668***. As regards the other grounds which have been raised by the Insurance Company, since there is no evidence adduced by the Insurance Company to substantiate these contentions, this Court does not find any strong ground in the appeal worth admitting the same.

6. The appeal thus deserves to be and is accordingly rejected. This Court is also not inclined to entertain the appeal considering the meagre amount of compensation awarded by the Tribunal.

7. In the result, the appeal being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved