NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1583 of 2017

Branch Manager, Liberty Videocon General Insurance Company Limited Shyam Plaza, Pandri Police Station Pandri Tahsil And Dist Raipur Chhattisgarh

---- Appellant

Versus

1. Subelal Sahu S/o Shri Tularam Sahu, Aged About 52 Years
2. Gopilal Sahu S/o Shri Subelal Sahu, Aged About 27 Years
3. Ku. Revti Sahu, D/o Shri Subelal Sahu Aged About 25 Years
4. Ku. Baisakhin Sahu, D/o Shri Subelal Sahu Aged About 21 Years

   All are R/o Village Banjari (Bagaud), Police Station And Tahsil Kurud Dist. Dhamtari Chhattisgarh (Claimants)
5. Mohit Ram Sahu, S/o Shri Ranuram Sahu, Aged About 30 Years R/o Bodra, Baliyara, Tahsil And Dist. Dhamtari Chhattisgarh (Driver)
6. Tularam Sinha, S/o Shri Dayaram Sahu, Aged About 42 Years R/o Village Sarkhi, Post Kalar, Police Station And Tahsil Abhanpur Dist. Raipur Chhattisgarh (Owner)

–--Respondents

For Appellant : Mr. Rohitashva Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

04/12/2017

1. Present is an appeal by the Insurance Company assailing the award dated 29.08.2017, passed by the Additional Motor Accident Claims Tribunal (FTC), Dhamtari, Chhattisgarh, in Claim Case No. 89/2015. Vide the impugned award the Tribunal in a death case has awarded a compensation of Rs.3,81,010/- with interest @ 6% per annum from the date of application.

2. The challenge by the Insurance Company to the award is that the policy which was issued by the present appellant Insurance Company had been cancelled by the present appellant. Since the policy stood cancelled, the Insurance Company cannot be fastened any liability of payment of compensation. He submits that the liability could not have been fixed upon the Insurance Company in view of

the provisions of Section 149(2)(b) of the Motor Vehicles Act. It was the contention of the counsel for the appellant that they have not been granted sufficient opportunity to lead its evidence before the Tribunal and without affording sufficient opportunity, the case has been closed. He further submits that the Insurance Company also tried to get the witnesses examined on commission basis, which too has been rejected by the Tribunal.

3. The sole ground of challenging the award is that of the policy having been cancelled. However on a querry being put to the counsel for the Insurance Company he has fairly accepted the fact that the cancellation of policy was made subsequent to the date of accident and the policy in the present case was issued almost about one year back and during this period the appellant-Insurance Company had not conducted any investigation or inquiry so far as the veracity of the policy is concerned.

4. On the fair submission by the learned counsel for the Insurance Company, this Court is of the opinion that the owner of the vehicle was never intimated about the cancellation of the policy so that he could have taken any rectification measure in spite of there being sufficient time available for the Insurance Company to verify.

5. In the given facts of the case, this Court does not find any strong case made out by the Insurance Company even on the ground of non-granting of sufficient opportunity to lead evidence. Accordingly the present appeal being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved