

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 829 of 2015**

- The New India Assurance Company Ltd. Shana Mumbai, Maharashtra, Through - Branch Manager, The New India Insurance Company Ltd. Sattigudi Chowk Raigarh Chhattisgarh

---- Appellant**Versus**

1. Lalobai W/o Late Khunaram Bhagat Aged About 45 Years R/o Village Siringa, Tahsil / Thana Dharamjaigarh, District Raigarh Chhattisgarh
2. Arjun Bhagat S/o Late Khunaram Bhagar, Aged About 25 Years R/o Village Siringa, Tahsil / P.S. Dharamjaigarh, District Raigarh Chhattisgarh
3. Ku. Fool Bai D/o Late Khunaram Bhagat Aged About 22 Years R/o Village Siringa Tahsil/ Thana Dharamjaigarh, District Raigarh Chhattisgarh
4. Gangasagar Yadav S/o Ramdeen Yadav Aged About 35 Years R/o Satipur, P.S. Chanda, District Sultanpur (Naraimitola) U.P.
5. Avtar Singh , S/o S. Singh, R/o K.L. /62 Sector-1/e Calamboli, Nawi Mumbai Maharashtra

---- Respondents

For Appellant	:	Shri Raj Awasthi, Advocate
For Respondents No.1 to 3:		Shri Sumit Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20/07/2017**

1. Present is an appeal under Section 173 of the Motor Vehicle Act, 1988 (for short 'the Act, 1988').
2. The appeal has been preferred by the insurance company assailing the award dated 04.03.2015, passed by the First Additional Motor Accident Claim Tribunal, Raigarh (for short ' the Tribunal') in claim case No.124/2011.

Vide the said impugned order, the Tribunal in a proceeding under Section 166 of the Act, 1988 awarded the claimants a compensation of a amount of Rs.15,45,200/- with interest @ 6% p.a. from the date of application.

3. It is this award which is under challenge.
4. So far as the facts of the case are concerned, this Court does not intend to give detailed description of the same as there is no dispute so far as the accident that took place on 17.07.2010 and in the said accident, the death of the deceased took place. The offending vehicle involved in the accident being MH 06 AQ/3841, which was a trailer of TATA MAX. it is also not in dispute that pursuant to the accident a criminal case was also lodged against the driver of the offending vehicle at Police Station Chhal and he was prosecuted for the offence under Section 279, 337 & 304-A of the IPC. The solitary ground of challenge by the Insurance company in the present appeal is that the policy which has been produced before the Court below issued by the New India Insurance Company i.e. the present appellant and the policy being valid from 28.02.2010 to 27.02.2011, the said policy is a fake document and has not been issued from the office of New India Insurance Company and therefore, the liability be fastened upon the owner and driver of the offending vehicle.
5. The said objection by the appellant is not acceptable or tenable that too misleading because the insurance company has not led any evidence before the Tribunal to substantiate this ground. In the absence of any evidence, the condition which has been raised by the insurance company is not proved and therefore, the finding of the Tribunal cannot be said to be bad. The finding of the Tribunal does not warrant interference for another reason that the Insurance Company had preferred an application under

Section 170 of the Act which was allowed by the Tribunal vide order dated 25.09.2012 holding that the Insurance Company is entitle to take its defence before the Tribunal. The fact the insurance company has moved application under Section 170 of the Act, 1988 and inference has to be arrived at of the insurance company having a valid policy.

6. The appeal thus being devoid of substance having no merits is liable to be and is hereby dismissed.

Sd/-

P.Sam Koshy

Judge

Ashu