

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 1359 OF 2005

United India Insurance Company Ltd., through Branch Manager, United India Insurance Company Ltd., Branch Medicare Complex, Rajendra Nagar, Sadar, Bilaspur, District Surguja (C.G.)

... Appellant

Versus

1. Smt. Meena Devi (dead), through LRs: 1(a) to 1(c)
- 1.(a) Mukesh Agrawal, S/o Purushottam Agrawal, aged about 35 years, R/o Village Kargi, P.S. Darima, Tahsil Ambikapur, District Surguja (C.G.)
- 1.(b) Jeetu @ Jitendra, S/o Purushottam Agrawal, aged about 28 years, R/o Village Kargi, P.S. Darima, Tahsil Ambikapur, District Surguja (C.G.)
- 1.(c) Kaushal Agrawal, S/o Purushottam Agrawal, aged about 26 years, R/o Village Kargi, P.S. Darima, Tahsil Ambikapur, District Surguja (C.G.)
2. Purushottam Das Agrawal, S/o Madanlal Agrawal, aged about 55 years, Vehicle Owner, R/o Village- Kargi, P.S. Darima, District Surguja (C.G.)

... Respondents

For Appellant	:	Mr. H.B. Agrawal, Senior Advocate, assisted by Ms. Meera Jaiswal, Advocate.
For Respondents 1(a) to 1(c)	:	Ms. Soniya Kuldeep, Advocate.
For Respondent 2	:	Mr. Manoj Kumar Mishra, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/08/2017

1. Challenge in the present appeal by the Insurance Company is to the award dated 30.6.2005 passed by the Third Additional Motor Accidents Claims Tribunal, Ambikapur, District Surguja, in Motor Accident Claim Case No. 2 of 2004.
2. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act, 1988, has awarded a compensation of Rs. 1,21,030/- to the Claimant fastening the liability for payment of the same upon the Appellant-Insurance Company. Hence, the present appeal.

3. The ground of challenge by the Insurance Company is that the deceased in the instant case was the son of the owner of the offending Jeep. The deceased died in the course of himself driving the said Jeep and as such he would not fall within the definition of third-party. The Insurance Company also assailed the impugned award on the ground that the deceased at the relevant point of time was not having a valid driving licence.

4. At this juncture, considering the fact that it is a death case where the death of the deceased took place almost 13½ years back i.e. on 29.3.2004, now it would not be fair on the part of this Court to decide the liability and entitlement of the Claimants at this stage. Moreover, the amount of compensation awarded by the Tribunal also is too paltry an amount in a death case, as the total compensation awarded is Rs. 1,21,030/-.

5. For the aforesaid reasons, this Court is of the opinion that leaving open the issues which have been raised by the Insurance Company, as of now, the appeal of the Insurance Company in the facts and circumstances of the present case stands rejected.

Sd/-
(P. Sam Koshy)
Judge