

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 363 of 2017**

Hariprasad Mishra S/o Jaykaran Mishra, aged about 62 years, (Acharya Ji), R/o Ward No.5, Village & Post Wadraf Nagar, District Balrampur, Chhattisgarh(Driver of vehicle No. C.G.15-C M-4168/ Non-Applicant No.2)

---- Appellant**Versus**

1. Ramlal S/o late Vishwanath, aged about 25 years, Caste Gond, Permanent R/o Village Karkachchhi, Tahsil Duddhi, District Sonbhadra (U.P.) at present business address Village- Ramkola C/o Ramsunder Gond, Tahsil Pratappur, District Surajpur, Chhattisgarh
2. Shiv Prasad S/o late Vishwanath, aged about 30 years, Caste Gond, Permanent R/o Village Karkachchhi, Tahsil Duddhi, District Sonbhadra (U.P.) at present business address Village- Ramkola C/o Ramsunder Gond, Tahsil Pratappur, District Surajpur, Chhattisgarh
3. Ratni W/o late Ramkhelawan, aged about 70 years, Caste Gond, Permanent R/o Village Karkachchhi, Tahsil Duddhi, District Sonbhadra (U.P.) at present business address, Village- Ramkola C/o Ramsunder Gond, Tahsil Pratappur, District Surajpur, Chhattisgarh
4. Rajmatiya W/o late Vishwanth, aged about 65 years, Caste Gond, Permanent R/o Village Karkachchhi, Tahsil Duddhi, District Sonbhadra (U.P.) at present business address Village- Ramkola C/o Ramsunder Gond, Tahsil Pratappur, District Surajpur, Chhattisgarh(Claimants)
5. The Oriental Insurance Company Limited, Divisional Office, Ambikapur, District Surguja, Chhattisgarh(Insurer of vehicle No. C.G.15-C M-4168/ Non-Applicant No.1)

---- Respondents

For Appellant	:	Shri Rahul Mishra, Advocate
For Respondent No.5	:	Shri R. N. Pusty, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05/09/2017**

Challenge in the present appeal is to the award dated 21.02.2017 passed in Motor Accident Claim Case No. 39 of 2016 by the Additional Motor Accident Claims Tribunal, Pratappur, District Surajpur (CG). Vide the impugned award, the Tribunal in a proceeding under Section 166 of the MV Act has awarded a compensation of Rs.2,22,200/- with interest @ 9% from the date of application. While passing the impugned award, the Tribunal has exonerated the Insurance Company which had insured the motorcycle on the ground of breach of policy condition and fastened the liability of payment of compensation upon the appellant owner.

2. The appellant in the instant case has questioned the impugned award on the ground that in fact, there was no accident which had occurred from his motorcycle bearing registration No. CG15 CM 4168 and that he has been falsely and wrongly implicated. Counsel for the appellant refers to the merg intimation made immediately after the accident i.e. the report lodged by one Srikant Agrawal wherein it has been stated that the deceased Ramsunder was hit by an unknown motorcycle resulting in his death. He submits that even the name of the present appellant is not reflected in the FIR or the merg intimation and therefore it cannot be said that the claimants have effectively proved the accident to have occurred from the vehicle belonging to the present appellant. He further submits that the vehicle pertaining to the appellant was seized by the police authorities after about 8 months of the accident. Thus, the finding of the Tribunal fastening the liability upon the appellant is a perverse finding deserving quashment of the same.

3. However, a perusal of the record would show that during the course of proceeding, the documents pertaining to the criminal case i.e. Crime No. 93

of 2015 registered against the appellant at police Station Basantpur, District Balrampur was produced. One of the documents in the said criminal case was the memorandum statement of the present appellant wherein he has accepted the accident to have occurred. Further, claimant Ramlal himself has been examined before the Tribunal who in his deposition has specifically stated the deceased to have been hit by the vehicle of the appellant and there is not much which has been extracted from his cross-examination so as to disbelieve his statement. What is also relevant to take note of the fact is that the standard of proof required for proving a criminal case is entirely different than the standard of proof required for establishing a claim case. In the instant case, there are sufficient materials with which the Tribunal has reached to the conclusion of the accident to have occurred from the motorcycle owned and driven by the appellant. Further, at the relevant point of time, the appellant admittedly had a licence only to drive "light motor vehicle" and he did not have a licence to drive "motorcycle" and that the accident occurred because of the use of the motorcycle. Therefore, the Tribunal has rightly fastened the liability of payment of compensation upon the appellant owner.

4. In view of the aforesaid reasons, this Court does not find any strong case made out for interfering with the impugned award. The appeal thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE