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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 517 OF 2017

Branch Manager, Bajaj Allianz General Insurance Company Limited, Shivmohan Bhawan, Pandri, P.S. Pandri, Civil & Revenue District Raipur (C.G.)

… Appellant

Versus

1. Kamlesh Kumar, S/o Shatruhan Sen, age 21 years, R/o Vill. Sambalpur, P.S. Lalbag, Post Singhola, Tahsil Dongargaon, District Rajnandgaon (C.G.)
2. Rajulal Sahu, S/o Shriram Sahu, R/o Vill. Parrikala, Post Bhedikala, Tahsil and District Rajnandgaon (C.G.)
3. Ranjudevi, W/o Shri Uday Bawankar, age 34 years, R/o Hamal Para, Ward No. 23, Shani Mandir Line, P.S. Kotwali, Civil & Revenue District Rajnandgaon (C.G.)

… Respondents

For Appellant	:	Mr. Rohitasva Singh, Advocate.
For Respondent No.1	:	Mr. P. Dutta, Advocate.
For Respondents No.2 & 3	:	Mr. Prateek Ku. Singh, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/08/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act by the Insurance Company assailing the award dated 15.9.2016 passed by the First Additional Motor Accident Claims Tribunal, Rajnandgaon, in Claim Case No. 35 of 2014.

2. Challenge by the Appellant-Insurance Company is on the solitary ground of liability. According to the Insurance Company, liability cannot be fastened upon the Insurance Company on account of there being clear breach of the policy conditions. According to the Insurance Company, the offending vehicle was a private vehicle but it was being used for commercial purpose and thus policy conditions stand violated. According to the Insurance Company, the driver of the offending vehicle was having a licence for Light Motor Vehicle at the relevant point of time whereas it should have had an endorsement for use of commercial purpose also. The

Insurance Company thus prayed for discharge of its liability to pay the amount of compensation awarded by the Tribunal.

3. At this juncture, it is relevant to take note of the fact the another appeal preferred by the same Insurance Company arising out of the same accident in respect of different claimant wherein the same grounds have been raised, has already been decided by this Court on 6.7.2017 in Misc. Appeal (C) No. 290 of 2017, whereby the appeal of the Insurance Company has been dismissed. In view of the same, this Court is inclined to dispose of the present appeal also on the same line as has been decided in Misc. Appeal (C) No. 290 of 2017, holding the appeal of the Insurance Company to be devoid of merits deserving rejection.

4. Accordingly, for the reasons assigned in Misc. Appeal (C) No. 290 of 2017, the present appeal of the Insurance Company also stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

/shard/