NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1223 of 2017

Divisional Manager National Insurance Company Limited.
Through : Authorized Signatory Divisional Manager National Insurance Company Limited Divisional Office Bilaspur (C.G).

---- Appellant

Versus

1. Murlidhar Diwan S/o Atibal Das Diwan, aged about 19 yrs, R/o Dipupara, Tarbahar, P.S.Tarbahar, Tehsil and District Bilaspur (C.G).
2. Surender Singh Chouhan S/o Jagdish Chouhan, aged about 26 yrs, R/o Hardiya, P.S.Sitapur, Tehsil and Distrct Baliya (U.P.)
3. Smt.Sharda Devi W/o Manohar, R/o Samta Colony, Raipur, Tehsil & District Raipur (C.G), Presently R/o Near the House of Choudhary Advocate, Main Road, Petrol Pump, Bankimongara, P.S.Bankimongara, Tehsil and District Korba (C.G.).

–--Respondents

For Appellant : Shri B.N.Nande, Advocate

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

31/08/2017

1. Heard on I.A. No.1, which is an application for condonation of delay. For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 89 days in filing the application stands condoned.

2. Present is an appeal under section 173 of the Motor Vehicle Act assailing the award dated 13/02/2017 passed in Claim Case No.808/2014 by the 9th Motor Accident Claims Tribunal, Bilaspur (C.G).

3. Vide the said impugned award, the Tribunal in an injury case on a proceeding under Section 166 has awarded the compensation of Rs.4,72,000/- along with interest @ 7.5% per annum from the filing of the said amount of which an amount of Rs.4,62,000/- is awarded for the medical expenses incurred in the course of treatment of the injury.

4. Present is an appeal by the Insurance Company challenging firstly on the liability aspect and second is on the quantum awarded.

5. So far as liability part is concerned, the contentions of the counsel for the appellant-Insurance Company is that, the driver of the offending vehicle was having a fake license and therefore the liability of payment of compensation ought to have been shifted upon the owner and driver by exonerating the Insurance Company of its liability in the light of there being a breach of policy condition. The counsel for the appellant in this regard relies upon the evidence of witness examined from the office of R.T.O., Ranchi who has deposed that, no such license produced before the Tribunal showing it to be a license of the driver of the offending vehicle was issued from the office of R.T.O., Ranchi. According to the appellant this aspect has not been reverted by them either by the driver or by the owner. Thus prayed for the Insurance Company being exonerated of its liability.

6. However, on perusal of record it reflects that, the license which the driver had was subsequently duly renewed from the office of R.T.O., Bilaspur and that this renewal of license from R.T.O., Bilaspur is an admitted position even by the appellant-Insurance Company. The fact that the driver of the offending vehicle had a duly renewed license to drive the vehicle and which is an admitted fact and not disputed by the appellant-Insurance Company, it is sufficient proof to show that there was no lapse or fault on the part of the owner of the offending vehicle with which the liability of the appellant-Insurance Company could be shifted.

7. So far as quantum part is concerned, the appellant had produced the medical documents before the Tribunal pertaining to the treatment taken by the claimant at different hospitals at Bilaspur, Raipur, Nagpur, Hyderabad and Delhi and the Annexures in this regard were marked from Exhibit P-9 to P-154 and the total amount of bills raised was of Rs.4,61,910/-. The only contention of the appellant is that, the claimant could not produced any disability certificate with which the compensation could have been awarded.

8. Perusal of record would show that, the amount of Rs.4.62 lakhs awarded is only towards the medical expenses which were incurred and which has not been disputed by the appellant-Insurance Company. Once when the accident is admitted, the injury is admitted

and the bills which has produced by the claimant of having taken treatment could not have been refused by the Tribunal.

9. Further, the amount of compensation awarded by the Tribunal in addition to the medical expenses is only of Rs.10,000/- towards pain and suffering. Under no circumstances can this be held to be either exorbitant or on the higher side.

10. In view of the case and the discussions made in the preceding paragraphs this court is of the opinion that, no strong case worth admitting the appeal has been made out and the appeal of Insurance Company thus deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Sumit