NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 290 of 2017

Branch Manager, Bajaj Allianz General Insurance Company Limited Shivmohan Bhawan, Pandri, P.S. Pandri, Civil & Revenue Distt. Raipur, Chhattisgarh ....(Insurer Of Vehicle No. C.G.08 K 6444).

---- Appellant

Versus

1. Pawan Sahu S/o Dinbandhu Sahu, age 21 years, Village Sambalpur P.S. Lalbag, Post Singhola, Tahsil Dongargaon, Distt. Rajnandgaon, Chhattisgarh ....(Claimant)
2. Raju Sahu S/o Shriram Sahu, R/o Village Parrikala, Post Bhedikala, Tahsil And District Rajnandgaon, Chhattisgarh ....(Driver Of Vehicle No. C.G.08 K 6444).
3. Ranjudevi W/o Shri Uday Bawankar, Aged About 34 Years R/o Hamal Para, Ward No.23, Shani Mandir Line, P.S. Kotwali, Civil & Revenue Distt. Rajnandgaon, Chhattisgarh ....(Owner Of Vehicle No. C.G.08 K 6444).

---- Respondents

For Appellant	:	Shri Rohitashva Singh, Advocate.
For Respondents No.1	:	Shri Abhishek Sharma, Advocate.
For respondents 2&3	:	Ms. Shiksha Verma, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

06/07/2017

1. Since all the respondents entered appearance, the defaults pointed out by the Registry with regard to non payment of PF stands ignored and is heard on admission.
2. The present appeal has been filed against the award dated 15.09.2016 passed by the Ist Additional Motor Accident Claims Tribunal, Rajnandgaon (in short, the Tribunal) in Claim Case No.11 of 2012.
3. The challenge to the award by the appellant is on the solitary ground of liability. According to the appellant, the liability cannot be fastened upon the insurance company on account of there being a clear breach of insurance

policy on more than one count. According to him, the vehicle was a private vehicle and was being used for commercial purpose and therefore condition to the policy has been breached. He further submits that the vehicle since it was being used for commercial purpose, but the driver of the said vehicle was possessing Light Motor Vehicle and therefore also there is breach of policy condition. Thus, prayed that the award impugned be modified to the extent that insurance company may be discharged from its liability.

4. A perusal of the document would clearly show that the claimant before the Tribunal has categorically deposed that he has not paid any rent to the owner of the vehicle, but had only contributed for filling up diesel for the use of vehicle. It has further been reflected from the proceeding that the insurance company as such has not been able to produce any evidence with which it can be said that the vehicle was being used for commercial purposes. Further, the other ground raised by the appellant-insurance company was the record of the criminal case in respect of case charged against the driver wherein also it reflects that the vehicle was being used for commercial purpose, but these documents were not put to the claimant during the course of cross examination so as to controvert his version that he has made before the Tribunal.

5. Last, but not he least, this court is also not inclined to interfere with the award taking into consideration the amount of money awarded to the claimant being only Rs.1,22,200/-

6. Thus, considering the aforesaid factual matrix of the case, the appeal fails and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder