

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 398 of 2012**

The Oriental Insurance Company Limited, Divisional Office, Bilaspur (CG)

---- Appellant**Versus**

1. Smt. Pushplata Bai Wd/o late Khilawan Singh Thakur, aged about 25 years
2. Ku. Pragati Singh D/o Late Khilawan Singh Thakur, aged about 9 years
3. Ku. Tanu Singh D/o Late Khilawan Singh Thakur, aged about 7 years
4. Shivam Singh S/o Late Khilawan Singh Thakur, aged about 5 years
5. Hari Singh Thakur S/o Mansingh, aged about 54 years
6. Mantora Bai W/o Hari Singh Thakur, aged about 50 years

Respondents 2 to 4 are minor, through natural guardian mother Smt. Pushplata Bai.

All are resident of village Muchhail, P.S. Lalpur, Tahsil Lormi, District Bilaspur (CG)

7. M/s M.S. Mineral & Mines, through - Smt. Anupma Luniya, W/o Narendra Luniya, aged about 44 years, R/o Gandhi Ward Mungeli, Dist- Mungeli, District Bilaspur, C.G. (Owner of vehicle truck Hywa no. CG 10C 2282)

---- Respondents

For Appellant	:	Shri Pankaj Agrawal, Advocate
For Respondents 1 to 6	:	Shri A. L. Singroul with Shri Keshav Dewangan, Advocates
For Respondent no. 7	:	Shri S. P. Sahu, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/02/2018**

Present is an appeal by the Insurance Company assailing the award dated 09.01.2012 passed by the Additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur (CG) in Claim Case No.118/2011. Vide the

impugned award, the Tribunal in a death case has awarded a compensation of Rs.10,11,344/- with interest at the rate of 6% per annum from the date of application. The liability of payment of compensation has been fastened upon the appellant Insurance Company.

2. The challenge in the present appeal is on the ground that the driver of the offending vehicle did not have a valid licence at the time of accident.

3. Perusal of the record would show that the Insurance Company has not led any evidence before the Tribunal to substantiate their contention. In the absence of any cogent and strong evidence led by the Insurance Company to prove the stand of the driver not having a valid licence, the ground so raised cannot be accepted at this juncture.

4. In view of the same, this Court does not find any strong case made out calling for an interference with the impugned award. The appeal of the Insurance Company being devoid of merits deserves to be and is accordingly dismissed.

5. There is also a cross objection filed by the claimants under Order 41 Rule 22 of the Code of Civil Procedure seeking enhancement of compensation. However it has been brought to the notice of this Court that the claimants had also filed a separate appeal i.e. MAC No. 407 of 2012 seeking enhancement of compensation which has already been dismissed by this Court vide order date 13th April, 2012.

6. In view of the dismissal of the aforesaid appeal of the claimants, the cross objection filed by the claimants is not sustainable and the same also deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**