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HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 862 of 2012

IFFCO Tokio General Insurance Co. Ltd. 3rd Floor, Shop No. 345-347, Ganga Shopping, G.E. Road, Raipur, Teh. And Distt. Raipur C.G.

---- Appellant

Versus

1. Smt. Matwarin Bai W/o Late Jham Singh @ Dham Singh Baiga Aged About 47 Years
2. Chain Singh S/o Late Jham Singh @ Dham Singh Baiga Aged About 27 Years
   Both R/o Village Dewri, Tahsil Baihar, Post Tingipur, Dist. Balaghat, Madhya Pradesh, District : Balaghat, Madhya Pradesh.
3. Bhagwandas S/o Sukhraaji Patel Aged About 27 Years R/o Nawapara Sa Lohara, Dist. Kabirdham C.G., District : Kawardha (Kabirdham), Chhattisgarh
4. Dharam Singh Meravi S/o Sakharam Meravi R/o Village Usarvaahi, Tahsil Pandariya, Dist. Kabirdham C.G., District : Kawardha (Kabirdham), Chhattisgarh.
5. Mohammad Majeed Khan S/o Abdul Nayeem Khan R/o Sa Lohara, Tahsil Sa Lohara, Dist. Kabirdham C.G., District : Kawardha (Kabirdham), Chhattisgarh.

---- Respondents

For Appellant	:	Shri P. Acharya, Advocate.
For Driver & Owner	:	Shri MK Bhaduri, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

19.02.2018

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the insurer against the award dated 10.07.2012 passed by the Motor Accident Claims Tribunal, Kabirdham (in short, the Tribunal) in Claim Case No.31/2010. Vide the impugned award, the Tribunal has awarded compensation of Rs.2,01,500/- along with interest @ 7 percent per annum from the date of application.
2. The appellant assails the impugned award on the ground that the

deceased in the instant case was travelling on the body of the Tractor at the time of accident whereas, sitting capacity of the Tractor is only one i.e. the Driver and therefore, the insurance company cannot be held liable to pay compensation.

3. However, a perusal of record would show that the insurance company in the instant case inspite of proper service being made, have chosen not to contest the case before the Tribunal and they have also not led any evidence before the Tribunal to substantiate its contentions. On the contrary, the document pertaining to the vehicle particularly the insurance policy have also been brought on record by the claimants.

4. Under the given circumstances, for want of sufficient evidence, the contention of the insurance company is not acceptable and the appeal thus being devoid of merit deserves to be and is hereby rejected.

Sd/-
(P.Sam Koshy)
Judge

inder