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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 6 of 2014

1. Smt. Ahmadi Bano widow of late Mohammad Abdul Khalid Khan, aged about 43 years
2. Mohammad Farukh Khan son of late Mohammad Abdul Khalid Khan, aged about 22 years

Both R/o Kelabadi, Durg, P.S. Durg Kotwali, Tahsil Durg, Civil and Revenue District Durg (C.G.)

---- Appellants/Claimants

Versus

1. Raju Lal Son of Harishchandra Sahu, aged about 25 years, R/o Borsibhatha, P.S. Pulgaon, District Durg (C.G.)
   (Driver)
2. Manager, The New India Assurance Company Limited, Thakkar Chamber, G.E. Road, Power House, Bhilai, Tahsil Durg, Civil and Revenue District Durg (C.G.)
   (Insurer)

---- Respondents

For Appellants	:	Shri Jitendra Gupta, Advocate
For Respondent No.1	:	None
For Respondent No.2	:	Shri Anil Gulati, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

12.11.2018

1. Being aggrieved with the order/award dated 30.09.2013 passed in Claim Case No. 84 of 2013 by the First Additional Motor Accident Claims Tribunal, Durg, District Durg (C.G.), the Appellants/Claimants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 for grant of suitable compensation.

2. The claimants/Appellants, unfortunate wife and son of deceased-Mohammad Abdul Khalid Khan, claimed compensation of Rs.27,50,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for death of the deceased in the motor accident before the Tribunal. The Tribunal, on a scrutiny of the evidence led by the parties, has rejected the claim petition.

3. The case in brief is that on 03.06.2008, the deceased was going on his vehicle Minibus bearing registration No. CG-07 – E-0283, at that time, Respondent No.1/driver of the vehicle driving the said vehicle in a rash and negligent manner overturned the same. As a result thereof, the deceased died on the spot.

4. Only one issue before the Tribunal that owner can cover under the policy taken by Respondent No.2 – New India Assurance Company Limited.

5. Learned counsel for the Appellants/Claimants submits that the learned Tribunal has erred in not awarding any compensation without considering the facts and circumstances of the case and rejected the claim petition of the Appellants. He also submits that the vehicle was insured with Respondent No.2 for the period from 05.09.2007 to 04.09.2008 and the deceased was in the vehicle as a passenger.

6. Learned counsel for Respondent No.2 submits that the deceased was owner of the offending vehicle and the insurance policy covers the third party risk of the offending vehicle, therefore, the Insurance Company would not be liable to pay the compensation.

7. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of the Claims Tribunal.

8. It is admitted fact that the deceased was owner of the vehicle Minibus bearing registration No. CG-07 – E-0283. As per insurance policy (Ex.-D/1), it covers the risk of passenger of commercial vehicle. When owner of vehicle dies in accident in his vehicle then the insurance company can not be held liable for payment of compensation against his death as the owner does not come within the ambit of a “person” as envisaged under Sections 165 & 166 of the Motor Vehicles Act and the policy issued by Respondent No.2 does not cover insurance of the owner for any injury or his death. Therefore, the learned Tribunal has rightly rejected the claim petition of the Appellants/Claimants.

9. In the result, the appeal being without any substance is liable to be dismissed and is accordingly dismissed.

10. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

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