

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.861 of 2011

B.B.C. Tractors Bemetara, District Durg (C.G.) Through its Manager
Rakesh Singh Thakur, R/o Bemetara, District Durg (C.G.) (Owner).

---Appellant

Versus

1. Hannu Ram S/o Balwant Sinha, aged about 45 years.
2. Janki Bai W/o Hannu Ram Sinha, aged about 42 years.
Both are R/o village Sagona, Thana & Tahsil Khamariya, District Durg (C.G.).
3. Rajesh S/o Laxman Sahu, aged about 27 years, R/o Sagona, Tahsil & Thana Khamariya, District Durg (C.G.).
4. United India Insurance Company Ltd, Behind Paras Complex Near SBI Bank, Gurudwara Station Road, Durg (C.G.).

---Respondents

For the appellant	:	Shri Vivek Tripathi on behalf of Shri Awadh Tripathi, Advocate.
For resp.No.3/Driver	:	Shri S.P.Sahu on behalf of Shri P.P.Sahu, Advocate.
For resp.No.4/ Insurance Company	:	Shri H.B.Agrawal, Senior Advocate along with Ms.Prabha Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/01/2018

1. Present is an appeal filed by the owner under Section 173 of the Motor Vehicles Act, 1988 assailing the award dated 24/03/2011 passed by the learned Additional Motor Accident Claims Tribunal, Bemetara, District Durg (C.G.) in Motor Accident Claim Case No. 67/2010.

2. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.2,74,000/- with interest @ 6% per annum from the date of application.
3. The fact of the case in brief is that, the deceased-Kuleshwar while travelling on a Motorcycle bearing registration No. CG-07-LN-6956 owned by the present appellant met with an accidental death. The legal representatives of the deceased, his parents, filed a claim application which stood allowed vide the impugned award.
4. Since, the policy issued was only an act only policy covering the risk of only the third party and that the deceased did not fall within the definition of third party, the Tribunal had exonerated the Insurance Company and had fastened the liability of payment of compensation upon the owner.
5. The counsel for the appellant/owner submits that, the deceased in the instant case was himself driving the Motorcycle at the time of the accident and that he has wrongly impleaded the respondent No.1 as a driver and which has not been properly appreciated by the Tribunal. He further submits that, the owner as well as the driver of the vehicle so also the Insurance Company have categorically denied the fact that, the respondent No.1 was driving the vehicle at the time of the accident and thus the award passed by the Tribunal is bad in law and the liability should be fastened upon the Insurance Company.
6. Perusal of record would show that, there is ample evidence which was brought before the Court below which shows that, a case was registered in

respect of the said accident as crime No. 86/2010 at the Police Station, Bemetara and the respondent No.1 was also prosecuted in a criminal case for the offence punishable under Sections 304-A, 279 and 337 of IPC.

7. The very fact that the respondent No.1 was prosecuted in a criminal case, prima-facie, leads to a strong case made out in favour of the appellant. There does not appear to be any other strong ground raised by the counsel for the appellant assailing the impugned award.

8. In the given facts and circumstances of the case, this Court does not find any strong case made out calling for an interference with the impugned award.

9. The appeal thus being devoid of merits deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE