

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 731 of 2011**

IFFCO Tokio General Insurance Co. Ltd., 3rd Floor, Shop No.345-347 Ganga Shopping, GE Road, Raipur, Distt. Raipur (CG).

---- Appellant**Versus**

1. Guruvari Bai, W/o Shri Chandrika Prasad Jaiswal, aged about 53 years.
2. Kanhaiya, S/o late Shri Chandrika Prasad Jaiswal, aged about 32 years.
Both R/o Govinda, Thana Bamnidih, Thana Champa, Distt. Janjgir Champa (CG).

---- Respondents

For Appellant	:	Shri P. Acharya, Advocate.
For Respondents	:	Smt. Renu Kochar, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****16.01.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the insurer against the award dated 04.03.2011 passed by the Chief Motor Accident Claims Tribunal, Janjgir Champa (in short, the Tribunal) in Claim Case No.03 of 2010. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.1,00,000/- to the claimants in a proceeding under Section 163-A of the Motor Vehicles Act.
2. The ground of challenge by the appellant-insurance company is that, the vehicle was being driven by the deceased himself and that it was he himself who was responsible for the accident. He further assails the award on the ground that since the deceased himself was the owner of the vehicle and for this reason also the claimants were not

entitled for any compensation. Therefore, the insurance company cannot be saddled with the responsibility of payment of compensation.

3. This ground of appellant-insurance company is not sustainable for the reason that in a proceeding under Section 163-A of the Motor Vehicles Act, the issue of negligence is not a ground which could be taken. Moreover, the appellant-insurance company have not moved any application under Section 170 of the Motor Vehicle Act before the Tribunal. Further, this issue now stands squarely covered by the recent larger Bench decision of the Supreme Court in the case of United India Insurance Co. Ltd. Vs. Sunil Kumar & Another, decided on 24.11.2017 in Civil Appeal No.9694 of 2013.
4. The appeal of the insurance company thus fails and is accordingly rejected.

Sd/-

(P.Sam Koshy)
Judge