NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.45 of 2018

The Oriental Insurance Co. Ltd., Branch Office, The Commercial Complex T P Nagar , Korba, Tahsil And District Korba Chhattisgarh.

---Petitioner

Versus

1. Rajendra Singh S/o Ramsharan Rajput, Aged About 37 Years, R/o Sinchai Colony, Darri, Police Station Darri, Tahsil Katghora, District Korba Chhattisgarh.
2. Rameshwar Prasad Bareth S/o S. Prasad Bareth, R/o Lalghat Balco, Police Station Balco, Post Balco, Tahsil And District Korba Chhattisgarh.
3. Keshar Swami S/o S. Maniswami, R/o Mission Road Ratakhar Korba, Police Station Korba, Post Korba, Tahsil And District Korba Chhattisgarh.
4. State Of Chhattisgarh, Through Election Officer, Korba, District Korba Chhattisgarh.

---Respondents

For the appellant/ Insurance Company : Shri Raj Awasthi, Advocate.

For resp./State : Ms.M.Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/01/2018

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles, Act assailing the award dated 20/09/2017 passed by the learned Additional Motor Accident Claims Tribunal, Katghora, District Korba (C.G.) in Motor Accident Claim Case No.04/2015. Vide the said impugned award, the Tribunal in an injury case under Section 166 of the

Motor Vehicles Act has awarded a compensation of Rs.1,54,146/- with interest @ 9% per annum from the date of application.

2. The contention of the counsel for the appellant/Insurance Company is that, the vehicle at the time of accident was seized by the Election Commission of the State and that it was being used for election purpose and therefore, if at all if, there is any liability, that liability should have been fastened upon the State Government or the Election Commission and not upon the Insurance Company. He further contended that, the vehicle not having a valid permit and fitness certificate so also there was an element of contributory negligence in the accident to occur.

3. Perusal of record would show that, the Insurance Company has not taking a plea of the vehicle being in the possession of the Election Commission and that the vehicle was being operated in election duties. Neither is there any evidence in this regard, so also there was no evidence led by the Insurance Company to establish that, the vehicle did not have a valid permit at the time of accident and also to establish the contributory negligence if any.

4. In the absence of any cogent evidence led by the Insurance Company, the finding of the Tribunal cannot said to be either perverse or contrary to the evidences which have come on record.

5. The appeal thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit