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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 180 of 2018

Royal Sundaram Alliance Insurance Co. Ltd. through Divisional Officer, Royal Sundaram Alliance Insurance Co. Ltd., near H.D.F.C. Bank, Devendra Nagar, Raipur (Chhattisgarh) Distt. Raipur (Chhattisgarh) at present - near Over Bridge, Vidhan Sabha Road, Police Station Pandri, Distt. Raipur (Chhattisgarh) through Corporate Office -Anna Salai Club House Road, Chennai (T.N.) (Insurer of vehicle Mahindra Tractor Bhoomiputra 265 D.I. Power Plus and Trolley)

---- Appellant

Versus

1. Hemlal Sahu S/o Shri Radheshyam Sahu, aged about 40 years, R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar (Chhattisgarh) at present - Kota Thana Saraswati Nagar, Raipur (Chhattisgarh) (Claimant)
2. Smt. Rukhmani Sahu W/o Shri Hemlal Sahu, aged about 38 years, R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar (Chhattisgarh) at present - Kota Thana Saraswati Nagar, Raipur (Chhattisgarh) (Claimant)
3. Chandrika Kumar S/o Shri Hemlal Sahu, aged about 15 years, minor and representing through his mother Smt. Rukhmani Sahu (Resp. No.2), R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar (Chhattisgarh) at present - Kota Thana Saraswati Nagar, Raipur (Chhattisgarh) (Claimant)
4. Ku. Meena Sahu D/o Shri Hemlal Sahu, aged about 13 years, minor and representing through her mother Smt. Rukhmani Sahu (Resp. No.2), R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar (Chhattisgarh) at present - Kota Thana Saraswati Nagar, Raipur (Chhattisgarh) (Claimant)
5. Ramcharan Sahu S/o Shri Hemlal Sahu, aged about 10 years, minor and representing through his mother Smt. Rukhmani Sahu (Resp. No.2), R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar

(Chhattisgarh) at present - Kota Thana Saraswati Nagar, Raipur (Chhattisgarh) (Claimant)

6. Bhuneshwar Sahu S/o Shri Janaram Sahu R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar (Chhattisgarh) (Driver of vehicle Mahindra Tractor Bhoomiputra 265 D.I. Power Plus and Trolley)
7. Janaram Sahu S/o Chaitram Sahu R/o Village Singarpur Mavli, Police Station Bhatapara, Distt. Balodabazar (Chhattisgarh) (Owner of vehicle Mahindra Tractor Bhoomiputra 265 D.I. Power Plus and Trolley)

---- Respondents

For Appellant : Shri Rohitashav Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order On Board

31/01/2018

Present is an appeal by the Insurance Company assailing the award dated 06.11.2017 passed by the 4th Additional Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No.79 of 2013. Vide the impugned award, in a death case, the Tribunal has awarded a compensation of Rs.6,37,500/- with interest @ 7.5% per annum from the date of application.

2. The contention of the counsel for the Insurance Company is that the deceased in the instant case namely Chetan Lal Sahu was travelling in the Tractor as a gratuitous passenger whose risk was not covered by the policy which was issued and therefore, the liability which has been fastened upon the Insurance Company should have been shifted upon the owner. He submits that there is also a violation of Rule 28 of the Rules of the Road Regulations, 1989. He further submits that the Insurance Company has led evidence of one of its Manager namely Sanjay Sharma who has deposed before the Tribunal that the policy which was issued by the Insurance Company was a commercial vehicle package policy covering the risk of only driver and conductor, therefore, the contention of the Insurance Company ought to have been accepted by the Tribunal.

3. However, perusal of the record would show that the policy which was issued is a commercial package policy and the witness of Insurance Company has stated that extra premium was also taken to cover the risk of the owner-cum-driver and the conductor. This by itself shows that the policy which was issued was a package policy which would also include the occupants in the said vehicle. Moreover, by virtue of the amendment that has been brought under Section 147 of the MV Act w.e.f. 14.11.1994, the liability of Insurance Company also covers the owner of the goods or his authorized representative carrying goods in a vehicle.

4. Undisputedly, in the present case, it is the case of the claimants so also that of the respondents that the deceased was travelling with his goods on the tractor when the accident occurred. Thus, he would squarely fall within the definition of occupant whose risk would be covered under a package policy. In addition to the evidence of Sanjay Sharma, the Insurance Company has not led any other evidence to substantiate the other grounds which have been raised by it.

5. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out worth admitting the appeal. The appeal thus being devoid of merits, deserves to be and is accordingly dismissed.

Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola