NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 219 of 2018

Reliance General Insurance Company Limited Through Its Legal Officer, Reliance General Insurance Company Limited, 301- 302, Corporate House, 169 R N T Marg, Opposite Jhabua Tower, Indore Madhya Pradesh.

---- Appellant

Versus

1. Smt. Bharti Nishad W/o Late Tilakram Nishad Aged About 22 Years
2. Pankaj Nishad S/o Late Tilakram Nishad Aged About 2 Years

   Respondent No.2 Minor Through Legal Guardian Mother Smt. Bharti Nishad,

   Both are R/o. Ward No.6, Municipal Council, Jamul, Police Station Jamul, District Durg, Chhattisgarh.
3. Shubham Goutam S/o Yashoda Prasad Goutam Aged About 38 Years R/o Mathpuraina Near Trimurti Temple, Police Station Tikrapara, Raipur, Tahsil And District Raipur, Chhattisgarh (Driver)
4. Satish Sharma S/o Madhusudan Sharma Aged About 34 Years R/o Danganiya, Sunder Nagar, Raipur, Post Danganiya, Police Station D.D. Nagar, Raipur Tahsil And District Raipur, Chhattisgarh (Owner)
5. Ledgaram Nishad @ Mehattar Ram S/o Late Firturam Nishad Aged About 51 Years
6. Smt Manki Bai Nishad W/o Ledgaram Nishad @ Mehattar Ram Aged About 46 Years

   Respondent No. 5 & 6 are R/o Village And Post Tarpongi, Police Station Dharsinwa, Tahsil Tilda, District Raipur, Chhattisgarh

---- Respondents

For Appellant	:	Mr. Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/02/2018

1. The present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 08.11.2017, passed by the 1st Additional Motor Accident Claims Tribunal, Durg, Chhattisgarh, in Claim Case No. 4/2015.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation

of Rs.10,90,600/- with interest @ 6% per annum from the date of application.

3. The Insurance Company challenges the award on three grounds, firstly the Driver did not have a valid license, secondly, the Court below did not properly appreciate the negligence part on the part of the deceased and thirdly, the income assessed is unreasonably high.

4. So far as the first ground of the Driver not having a valid license, the said ground has been rightly considered by the Tribunal relying upon the decision of the Hon'ble Supreme Court in the case of ***"Mukund Dewangan vs. Oriental Insurance Company Limited" AIR 2017 S.C. 3668*** and therefore the same is not sustainable and stands negated. So far as the negligence part is concerned, again since the deceased was a pillion rider, there is no question of any negligence on his part for the accident to occur and he is at liberty to claim compensation against the offending vehicle.

5. So far as the income part is concerned, again this Court does not find it to be unreasonably high for the reason that the income assessed is Rs.4500/- and the date of accident is 28.11.2013. Likewise, so far as granting of future prospects is concerned, the same also stands squarely covered from the recent judgment of the Hon'ble Supreme Court in the case of ***"National Insurance Company Limited vs. Pranay Setthy and Others" decided on 31.10.2017, in Civil Appeal No. 25590/2014***

6. For the foregoing reasons, this Court does not find any illegality or perversity on the part of the Tribunal in passing the impugned award

and the appeal being totally devoid of merits deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved