

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 1698 of 2017**

The United India Insurance Company Limited Through Branch Manager, Amar Complex, Jeewan Bima Marg, Pandri, Near Railway Crossing, Raipur, Tahsil And District Raipur, Chhattisgarh

**---- Appellant****Versus**

1. Gopal Prasad Kurre S/o Late Vishram Kurre, Aged About 39 Years R/o Village Pahanda, Police Station Balodabazar, Presently Residing At Govind Bada, Mangla, Police Station Civil Line, Tahsil And District Bilaspur, Chhattisgarh
2. Smt. Meena Kumari W/o Kanhaiya Dhritlahre, Aged About 45 Years R/o Village Arjuni, Post Arjuni, Police Station Balodabazar, District Balodabazar, Chhattisgarh
3. Smt. Savitri Bai W/o Late Ferha Ram Bhardwaj, Aged About 43 Years R/o Village Math, Post Kharora, Police Station Kharora, District Raipur, Chhattisgarh .....(Claimants)
4. Sheru Sahu S/o Ramkhilawan Sahu, Aged About 20 Years R/o Devsundra, Police Station Palari, District Balodabazar-Bhatapara, Chhattisgarh .....(Non-Applicant No.1)
5. Kishan Lal Sahu S/o Ramkhilawan Sahu, R/o Devsundra, Police Station Palari, District Balodabazar-Bhatapara, Chhattisgarh .....(Non-Applicant No.2)

**----Respondents**


---

|               |   |                                                                             |
|---------------|---|-----------------------------------------------------------------------------|
| For Appellant | : | Mr. H.B. Agrawal, Senior Advocate<br>along with Ms. Prabha Sharma, Advocate |
|---------------|---|-----------------------------------------------------------------------------|

---

**Hon'ble Shri Justice P. Sam Koshy****Order on Board****05/01/2018**

1. Heard on I.A. No.1, which is an application for condonation of delay.  
  
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 01 day in filing the appeal stands condoned.
2. The present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act challenging the award dated 23.08.2017, passed by the Motor Accident Claims Tribunal, Bilaspur,

Chhattisgarh, in Motor Accident Claim Case No. 531/2015. Vide the impugned award the Tribunal in a death case has awarded a compensation of Rs.1,24,500/- with interest @6% per annum from the date of application.

3. The solitary ground of challenge by the appellant in the instant case is that the offending vehicle at the time accident was not having a valid permit and fitness certificate and therefore there is an apparent breach of policy condition and for which the Insurance Company should be exonerated of its liability.
4. It was also the contention, that the Claimants before this Court were adults and self-dependent upon themselves and therefore were not entitled for compensation. So far as the question of permit and fitness is concerned, there is a categorical finding by the Tribunal itself that the Insurance Company has not led any evidence from the office of the R.T.O. with which it could be established that there was no valid permit and fitness certificate of the vehicle involved in the accident. The only stand which the counsel for the appellant tried to harp was for drawing an inference from the records of the criminal case, where the Driver has been charged for the offence under Section 66/192 of the Motor Vehicles Act, with which it has to be presumed that the vehicle did not have a valid permit.
5. The Insurance Company cannot be absolved of its liability only drawing an assumption or presumption from the F.I.R. which has been lodged against the accused persons. It is settled law that if the plea has been raised by the Insurance Company of there being a breach of policy condition, it is the duty of the Insurance Company

that it should prove the contention by leading cogent evidence. In the instant case, there does not appear to be any cogent evidence laid by the Insurance Company before the Tribunal. Thus, this Court does not find any strong case made out for interfering with the impugned award. The same deserves to be and is accordingly dismissed.

6. This Court also is not inclined to interfere with the award considering the meager amount of compensation awarded by the Tribunal.

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

Ved