

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1082 of 2011**

Bajaj Alliance General Insurance Company Limited, through Branch Manager, Branch Korba Transport Nagar, Korba, District Korba (CG)
Area office – Shivmohan Bhawan, Vidhan Sabha Road, Raipur, CG

---- Appellant**Versus**

1. Smt. Ganga Devi Karsh W/o Lt. Malikram Karsh, aged 51 years, R/o Village Saragaon, P.S. Saragaon, Tah. Champa, District Janjgir Champa (CG)
2. Eshvar Prasad Karsh S/o Lt. Malikram Karsh, aged 27 years R/o Village Saragaon, P.S. Saragaon, Tah. Champa, District Janjgir Champa (CG)
3. Harinarayan Karsh S/o Lt. Malikram Karsh, aged 25 years, R/o Village Saragaon, P.S. Saragaon, Tah. Champa, District Janjgir Champa (CG)
4. Ku. Pushpa Karsh D/o Lt. Malikram Karsh, aged about 21 years, R/o Village Saragaon, P.S. Saragaon, Tah. Champa, District Janjgir Champa (CG)
5. Murari Karsh S/o Lt. Malikram Karsh, aged 14 years, minor through natural guardian mother Resp. No. 1, R/o Village Saragaon, P.S. Saragaon, Tah. Champa, District Janjgir Champa (CG)
6. Liyakat Hussain S/o Afzal Hussain, aged 40 years, R/o Tiverta, P.S. Dipka, Dist. Korba (CG)
7. Dherendra Singh S/o Sumer Singh, aged 32 years, R/o Urja Nagar, P.S. Dipka, Dist. Korba (CG)

---- Respondents

For Appellant	:	Shri N. K. Thakur along with Shri Rohitashav Singh, Advocates
For Respondents 1 to 5	:	Shri R. S. Patel, Advocate
For Respondent no.7	:	Shri Govind Dewangan, Advocate

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

08/01/2018

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 19.07.2011 passed by the Chief Motor Accident Claims Tribunal, Janjgir Champa (CG) in Motor Accident Claim Case No. 62 of 2010. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.16,14,830/- with interest @ 6% per annum from the date of application.

2. The claimants in the instant case have also filed a cross objection under Order 41 Rule 22 of CPC seeking enhancement of compensation.

3. The challenge by the Insurance Company is on the ground that the driver in the instant case did not have a valid licence on the date of accident and the vehicle was being driven in breach of the policy conditions, therefore, the Insurance Company should be exonerated of its liability and if at all if any liability is to be fastened, it should have been upon the owner of the said vehicle. Counsel for the Insurance Company referred to the evidence led by the Insurance Company to substantiate their contention

4. However, on perusal of the record it would reveal that the Insurance Company had called upon a witness from RTO, Bilaspur namely Umesh Kumar Tripathi NAW-2 who in his deposition in paragraph-2 in very categorical terms has stated that the driver involved in the accident Liyakat Hussain was having a licence to drive light motor vehicles as well as heavy goods vehicles which was valid from 21.05.2009 to 20.05.2012. This witness has also specifically stated that on the date of accident the driver had a valid licence.

5. In the light of the deposition of the witness from RTO, Bilaspur, this Court is of the opinion that the stand which the Insurance Company is taking in the present appeal is not worth accepting as there is no proof to substantiate their contention apart from the evidence of this witness. In the given facts and

circumstances of the case, this Court is of the opinion that no scope of interference with the impugned award has been made out by the appellant. The appeal of the Insurance Company thus fails and is accordingly dismissed.

6. So far as the cross objection of the claimants is concerned, again this Court, on perusal of the amount of compensation awarded, finds that the Tribunal has taken into account all necessary factors while computing the compensation and the claimants also have not made out any strong case for interfering with the quantum of compensation awarded. Accordingly, the cross objection of the claimants also fails and is accordingly dismissed.

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