

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 845 of 2011**

Reliance General Insurance Company Limited, through: its Legal Manager, Reliance General Insurance Company Limited, 301-302 Corporate House 169 RNT Marg Opposite Jhabua Tower, Indore (M.P.

---- Appellant**Versus**

1. Topiram Mangeshkar, S/o. Mahesh Mangeshkar, Aged about 32 years, R/o. Village Khairwar, Police Station Pipariya, Tahsil and District Kabirdham, Chhattisgarh
2. Arvind Kumar Chandrakar S/o Ramnath Chandrakar, Aged about 30 years, R/o Village Pendrikala, P.S. Kunda, Tahsil Pandariya, District Kabirdham, Chhattisgarh
3. Rajkumar Chandrakar S/o Rajnath Chandrakar, R/o Village Pendrikala, P.S. Kunda, Tahsil Pandariya, District Kabirdham, Chhattisgarh

----Respondents

For Appellant	:	Mr. Sourabh Sharma, Advocate
For Respondent No.1/Claimant:		Mr. Parag Kotecha, Advocate (Amicus curiae appointed by the Court)

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/01/2018**

1. Mr. Parag Kotecha, Advocate present in the Court is directed to assist the Court for disposal of the appeal.
2. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 30.08.2010, passed by the Motor Accident Claims Tribunal, Kabirdham (Kawardha), Chhattisgarh, in Motor Accident Claim Case No. 79/2008, whereby the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.92,000/- with interest @ 8% per annum from the date of application.

3. The counsel for the appellant submits that the challenge is on the liability part, as the injured person was a gratuitous passenger traveling on the Tractor as per the claim application itself.
4. However, perusal of record would show that the Insurance Company in the instant case has not led any evidence to substantiate their contention.
5. In the absence of any evidence by the Insurance Company, the plea taken by the Insurance Company in the present appeal may not be acceptable, as it was the burden of the appellant-Insurance Company to have established the grounds that they have raised in their pleading.
6. Under the circumstances, the appeal fails and same stands rejected.
7. This Court extends a word of appreciation to Mr. Parag Kotecha, Advocate for rendering the assistance in the disposal of the case.
8. The Registry is directed to send a copy of this judgment to the Secretary, District Legal Services Authority, Kawardha, District Kabirdham, Chhattisgarh, who in turn, is directed to make all efforts to ensure serving a copy of this judgment to the Claimant/ Respondent No.1 at the address shown in the cause title.

Sd/-
(P. Sam Koshy)
Judge