

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 537 of 2011**

The Divisional Manager, The Oriental Insurance Co. Ltd, Divisional Office, Opposite Rajeev Plaza, Bus Stand Chowk, Bilaspur, Tahsil and District Bilaspur Chhattisgarh

---- Appellant**Versus**

1. Santosh Yadav, Aged about 40 years, S/o. Itwari Yadav,
 2. Smt. Kaleshwari Yadav, Aged about 38 years, W/o. Santosh Yadav,
- Both are R/o. Masturi, Police Station Masturi, District Bilaspur Chhattisgarh (Claimants)

----Respondents

For Appellant	:	Mr. Pallav Mishra, Advocate under instructions of Mr. R.N. Pusty, Advocate
For Respondents/Claimants	:	Mr. Qamarul Aziz, Advocate on behalf of Mr. Ali Asgar, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/01/2018**

1. The present is an appeal by the Insurance Company assailing the award dated 01.02.2011, passed by the 5th Additional Motor Accident Claims Tribunal, Bilaspur, Chhattisgarh, in Claim Case No. 92/2010. Vide the impugned award the Tribunal, in a claim case under Section 163 of Motor Vehicles Act, has awarded a compensation of Rs.1,00,000/- with interest @ 7.5% per annum from the date of application.
2. The appellant in the instant case has challenged the award on the ground that the deceased in the instant case did not have a valid license at the time of accident. Further, the counsel for the appellant submits that the application itself was not maintainable on the ground that it was the deceased himself, who was responsible for

the accident and as such the claim application under Section 163A was not maintainable.

3. Perusal of record would show that there was no substantive evidence led by the Insurance Company to substantiate any of these grounds, which have been raised, even otherwise the ground of negligence would not be applicable in the instant case since the claim application itself was under Section 163A, where the claimants need not prove the negligence part for claiming compensation.
4. So far as the deceased not having any license, for this also there was no substantive evidence led by the Insurance Company in this regard.
5. The appeal, thus, fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved