

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.715 of 2011

IFFCO Tokio General Insurance Co.Ltd., 3rd Floor, Shop No.345-347
Ganga Shopping, Near Mata, G.E.Road, Raipur, Tehsil and District
Raipur (C.G.).

---Appellant

Versus

1. Smt.Durpati Sinha W/o Late Shri Premlal Sinha, aged about 41 years.
2. Manoj Kumar S/o Late Shri Premlal Sinha, aged about 21 years.
3. Narayan Sinha S/o Late Shri Premlal Sinha, aged about 19 years.
4. Kumari Sunita D/o Late Shri Premlal Sinha, aged about 17 years.
Respondents No.4 being minor is represented through her mother
Smt.Durpati Sinha.
All are R/o village Kuthradh, Post Hirmi, Thana Suhela, District Raipur
(C.G.).
5. Goverdhan Suryavanshi S/o Shri Radhey Shyam Suryavanshi, R/o
Gondpara, Kharora, Thana Kharora, District Raipur (C.G.) (Driver).
6. Smt.Basanti Kaur Bhatiya, through Aman Travels, Sector 5, Devendra
Nagar, Thana Devendra Nagar, District Raipur (C.G.).

---Respondents

For appellant/Insurance Company	:	Shri P.Acharya on behalf of Shri Amrito Das, Advocate.
For respondents No.1 to 4	:	Shri Suresh Tandan, Advocate.
For respondents No.5 & 6	:	Shri Aadil Minhaj on behalf of Ms.Farah Minhaj, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/01/2018

1. Present is an appeal filed by the Insurance Company under Section 173
of the Motor Vehicles Act, 1988 assailing the award dated 13/01/2011

passed by the learned 9th Additional Motor Accident Claims Tribunal (FTC), Raipur (C.G.) in Motor Accident Claim Case No.70/2010.

2. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.3,66,500/- with interest @ 7.5% per annum from the date of application.

3. The counsel for the Insurance Company challenging the impugned award submits that, the Insurance Company has been wrongly fastened with the liability of payment of compensation. According to him, the Tribunal should have appreciate the fact that, the vehicle was issued with a permit for a private service vehicle for the purpose of transportation of the employees of the Ultratech Cement Company located at Hirmi from Raipur. He further submits that, apart from the driver and conductor of the bus, the only person who could travel in it were the employees of the cement company and in the instant case, the deceased was not an employee of the said company and therefore it is to be presumed that, he was a gratuitous passenger and thus prayed for exoneration of the Insurance Company of its liability.

4. However perusal of the record would show that, the witness examined on behalf of the Insurance Company i.e. the employee from the office of R.T.O. has categorically admitted the fact that, apart from exhibit D/1, there was also exhibit D/2 issued from the office of R.T.O. whereby the permit was also issued for the transportation of relatives of the employees working in the cement factory in the said bus. It was also the claim that the deceased was

the brother of NAW-2-Ravi Kumar who was an employee of the cement company.

5. Further from the record, there does not appear to be any evidence led by the Insurance Company with which it could be established that, the deceased was not a relative of any of the employees of the cement company.

6. Given the aforesaid facts and circumstances of the case and also taking note of the fact that the policy issued by the Insurance Company was a package policy, this Court does not find any strong case made out by the Insurance Company calling for an interference with the impugned award.

7. The appeal thus fails deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit