

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.21 of 2018

Ritesh Tiwari S/o Dilip Tiwari, Aged 24 Years (Now 27 Years), R/o Ward No. 24, Darripara, Kawardha, Tahsil - Kawardha, District- Kabirdham, Chhattisgarh. (Owner of the vehicle).

---Appellant

Versus

1. Dukalhin Bai Wd/Of Late Hirau, Aged About 56 Years.
2. Ramu S/o Late Hirau, Aged About 38 Years.
3. Janu S/o Late Hirau, Aged About 35 Years.

All are R/o Raggupara, Police Station - Bodla, District - Kabirdham, Chhattisgarh. (Claimants)

4. Raj Kumar S/o Bablu @ Ramsingh Yadav, Aged About 28 Years R/o Village - Koliha, Nawagaon, Police Station - Pipariya, Tahsil - Kawardha, District - Kabirdham, Chhattisgarh. (Driver of vehicle).
5. Branch Manager, The Oriental Insurance Company Limited, Regional Office R.K. Plaza, Ring Road No.1. Panchpadi Naka, Raipur, Chhattisgarh. (Insurance Company)

---Respondents

For the appellant : Shri Malay Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/01/2018

1. Present is an appeal filed by the owner under Section 173 of the Motor Vehicles Act challenging the award dated 22/11/2017 passed by the learned Additional Motor Accident Claims Tribunal (F.T.C.), Kabirdham (C.G.) in Motor Accident Claim Case No.73/2016.
2. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.2,38,000/- with interest @ 6% per annum from the date of application.

3. The counsel for the appellant submits that, the finding of the Tribunal is erroneous on the ground that, the present matter stands squarely covered by the recent larger Bench decision of the Hon'ble Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited [AIR 2017 SC 3668]**. He further submits that, the driver of the vehicle had a valid license in as much as he had a license of Light Motor Vehicle and therefore the liability if any, should have been fastened upon the Insurance Company.
4. Perusal of record, particularly, the finding of the Tribunal would reveal that, the vehicle involved in the instant case is a JCB Crane which has its laden weight of 11,200 Kilograms and that the license which the driver of the crane having was only of a Light Motor Vehicle where the laden weight would be only up to 7,500 Kilograms.
5. Apparently, there is a difference in the category of the vehicle which the driver was operating at the time of the accident.
6. Given the factual matrix of the case, particularly, considering the vehicle involved in the case, this Court is of the opinion that the finding of the Tribunal cannot be said to be either perverse or contrary to the evidence which have come on record.
7. Accordingly, this Court does not find any strong case made out by the counsel for the appellant calling for an interference with the impugned award.
8. The appeal thus fails and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE