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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 620 of 2011

Reliance General Insurance Company Limited, through its Legal Manager, Reliance General Insurance Co. Ltd., Shop No. 412-413, 4th Floor, Ravi Bhavan, near Jaistambh Chowk, G.E. Road, Raipur (Chhattisgarh)

---- Appellant

Versus

1. Smt. Ahilya Bai Thakur Wd/o late Gajadhar Singh Thakur, aged about 37 years, caste Gond, R/o Village Khairwahi, Post Latabod, Police Station & Tahsil Balod, District Durg (C.G.)
2. Ku. Yamini Thakur D/o late Gajadhar Singh Thakur, aged about 15 years, R/o Village Khairwahi, Post Latabod, Police Station & Tahsil Balod, District Durg (C.G.)
3. Phanish @ Manish Kumar Thakur S/o late Gajadhar Singh Thakur, aged about 10 years, R/o Village Khairwahi, Post Latabod, Police Station & Tahsil Balod, District Durg (C.G.)

   Respondents 2 & 3 are minor thorough natural guardian mother Ahilya Bai Wd/o late Gajadhar Singh Thakur

4. Pratap Singh Sahu S/o Chintaram Sahu, aged about 34 years, R/o Village Khairwahi, Post Latabod, Police Station & Tahsil Balod, District Durg (C.G.)
5. Royal Sunderam Alliance Insurance Co. Ltd. Registered & Head Office 21 Pathulans Rosad, Chennai, 600002 and Office at Royal Sunderam Alliance Insurance Co. Ltd., 315 Arneja Corner B. Wing 3rd Floor Sec. 17, Vasinavi, Mumbai 400709.

---- Respondents

For Appellant	:	Shri Sourabh Sharma, Advocate
For Respondent No.4	:	Shri Praveen Ku. Dhurandhar, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

10/01/2018

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 28.10.2010 passed by the Additional Motor Accident Claims Tribunal (FTC), Balod, District Durg (CG) in Claim Case No.03/2010. Vide the impugned award the Tribunal in a death case has awarded a compensation of Rs.4,03,000/- with interest at the rate of 6% per annum from the date of application.

2. The challenge to the impugned award is on the ground that the deceased in the instant case was a gratuitous passenger and therefore, the liability has been wrongly fastened upon the Insurance Company. Counsel for the appellant prays for exoneration of the Insurance Company and for shifting the liability upon the owner. He further submits that the award is also bad in law to the extent that the Tribunal has award a penal interest of 9% if the amount is not deposited within a period of 2 months.

3. Perusal of the record would show that the Insurance Company, in the instant case, has not led any evidence before the Tribunal to substantiate any of its contentions. In the absence of any evidence by the Insurance Company in support of its contention, the submission put forth by the counsel for the appellant assailing the impugned award does not have any force. The appeal of the Insurance Company does not have any force even on merits of the case as the policy itself shows that the risk covered by the Insurance Company was for two persons.

4. The present appeal thus fails and is accordingly dismissed. However, it is made clear that the Insurance Company should deposit the amount at the earliest preferably within a period of 60 days from today failing which the penal interest as awarded by the Tribunal shall come into force.

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

Bhola