

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.850 of 2011

The Oriental Insurance Co.Ltd. Through : Divisional Manager, Oriental Insurance Company, Bilaspur, District Bilaspur (C.G.).

---Appellant

Versus

1. Ajay Sahu S/o Sundar Sahu, aged about 52 years, R/o village Nariyara, P.S.Pamgarh, District Janjgir-Champa (C.G.).
2. Shambhu Mehta @ Shambhu Pal Mehta S/o Maksudan @ Madhusudan Mehta, aged about 35 years, R/o Pali Road, Dipka, District Korba (C.G.).
3. Smt.Rita Singh W/o Ashok Singh, R/o Pali Road, Dipka, District Korba (C.G.).

---Respondents

For appellant	:	Shri A.K.Athale, Advocate.
For respondent No.2	:	Shri Mukesh Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/01/2018

1. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 08/10/2010 passed by the learned 9th Additional Motor Accident Claims Tribunal (F.T.C.), Bilaspur in Motor Accident Claim Case No.106/2010.
2. Vide the said impugned award, the Tribunal in an injury case has awarded a compensation of Rs.63,498/- with interest @ 6% per annum from the date of application.
3. The counsel for the appellant/Insurance Company submits that, it is a case where the policy which was issued in favour of the injured stood

cancelled as the cheque which was issued for the issuance of policy got dishonored on account of insufficient fund. This aspect has not been properly appreciated by the Tribunal. He further submits that, the Insurance Company in the instant case has led sufficient evidence to establish this fact that the policy stood cancelled well in advance in as much as the policy stood cancelled on 05/09/2007 and the accident took place on 21/01/2008 and that the cancellation part was also duly intimated to the injured and therefore the Insurance Company could not have been saddled with the liability of payment of compensation.

4. The counsel for the respondent submits that, it is a case where the Insurance Company has already deposited the entire amount and as such has satisfied the award that has been passed and nothing further remains to be adjudicated upon in the instant case. He further submits that, the owner as such has not been able to file his WS before the Tribunal with which he could have taken a specific stand.

5. Given the aforesaid facts and circumstances of the case and taking note of the fact that, the entire amount awarded by the Tribunal has been deposited by the Insurance Company as has been directed by this Court vide its order dated 08/08/2011 this Court is of the opinion that, ends of justice would meet if the appeal is allowed in part to the extent that, the Insurance Company shall have the liberty to recover the same from the owner i.e. respondent No.2 who was the owner of the vehicle at the time of the accident.

6. With the aforesaid observation, the appeal stands allowed in part and disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE