

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 282 of 2012

Reliance General Insurance Company Limited, Through Manager, Ravi Bhawan, G.E.Road, Raipur (C.G.) (Insurer).

---Appellant

Versus

1. Sewaram urf Sheetal Ram Netam S/o Sadharam Netam, aged about 35 years.
2. Nand Kumar Netam S/o Sadharam Netam, aged about 32 years.
3. Ramkumar Netam S/o Sadharam Netam, aged about 28 years.
All are R/o village Panwdwar, Thana Sihawa, Tahsil Nagri, District Dhamtari (C.G.). (Claimants).
4. Ballu Ram Banjare S/o Dwarpal Banjare, R/o Bazarpara, Nagri, P.S.Nagri, District Dhamtari (C.G.) (Driver).
5. Abdul Jabbar Khan S/o Nawab Jafar, R/o Ward No.06, Jangalpara, Nagri, P.S.Nagri, District Dhamtari (C.G.) (Owner).

---Respondents

For appellant/Insurance Company : Shri Rohitashva Singh on behalf of Shri N.K.Thakur, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/02/2018

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act, 1988 challenging the award dated 11/05/2011 passed by the learned Second Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Motor Accident Claim Case No.59/2010.
2. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.2,76,000/- with interest @ 6% per annum from the date application.

3. The counsel for the appellant/Insurance Company submits that, the impugned award fastening the liability upon the Insurance Company is bad in law, as the deceased in the instant case was traveling as a gratuitous passenger and risk of the gratuitous passenger would not be covered under the policy which has been issued by the Insurance Company.

4. However, perusal of record would show that, the Insurance Company has not led any evidence of an officer of the Insurance Company in this regard. The only witness examined on behalf of the Insurance Company is a witness from the office of RTO, Raipur who has also not dealt with the issue of gratuitous passenger.

5. Moreover, from perusal of the policy it reflects that, the policy issued was a package policy and it is settled position of law that a package policy would include the risk of the occupant on the vehicle insured by the Insurance Company.

6. Undisputedly, the deceased in the instant case was an occupant in the offending vehicle at the time of the accident.

7. The opinion of this Court on the issue that the risk of the occupant also would be covered under the package policy stands fortified from the decision of the Hon'ble Supreme Court in the case of **National Insurance Company Limited v. Balakrishnan & Anr.** [2013 1 SCC 731] and also 2011 ACJ 1415 (Del).

8. In the absence of any strong evidence led by the Insurance Company and also taking note of the fact that, the policy issued was a package policy,

this Court does not find any strong case made out by the counsel for the Insurance Company calling for an interference with the impugned award.

9. The appeal thus being devoid of merits deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit