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HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 469 of 2012**

Abhishek Kumar Gupta, S/o. Satish Kumar Gupta, R/o. Gandhi Chowk, Main Road, Rajpur, Police Station and Tahsil Rajpur, District Surguja Chhattisgarh (Owner)

----Appellant**Versus**

1. Bigan Bhuiya, S/o. Tulsi Bhuiya (died and deleted)
2. Hirmani Devi, W/o. Bigan Bhuiya, Aged about 50 years, R/o. Village Harhe, Police Station Ramkanda, District Gadhwa (Jharkhand) (Claimant)
3. Bijendra Dubey, S/o. Charitra Dubey, Aged about 40 years, R/o. Nawadihkhurd, Police Station Nauhata, District Rohtas (Bihar) (Driver)
4. Bajaj Allianz General Insurance Company, Through: Branch Manager, Address Shiv Mohan Bhawan, Vidhan Sabha Road, Pandari, Raipur, Chhattisgarh

---- Respondents**AND****MAC No. 470 of 2012**

Abhishek Kumar Gupta, S/o. Satish Kumar Gupta, R/o. Gandhi Chowk, Main Road, Rajpur, Police Station and Tahsil Rajpur, District Surguja Chhattisgarh (Owner)

----Appellant**Versus**

1. Kamesh Bhuiya, S/o. Dikdar Bhuiya, Aged about 20 years, R/o. Village Harhe, Police Station Ramkanda, District Gadhwa (Jharkhand) (Claimant)
2. Bijendra Dubey, S/o. Charitra Dubey, Aged about 40 years, R/o. Nawadihkhurd, Police Station Nauhata, District Rohtas (Bihar) (Driver)
3. Bajaj Allianz General Insurance Company, Through: Branch Manager, Address Shiv Mohan Bhawan, Vidhan Sabha Road, Pandari, Raipur, Chhattisgarh

---- Respondents

For Appellant	:	Mr. Rahul Mishra, Advocate
For Insurance Company	:	Mr. Ghanshyam Patel, Advocate under instructions of Mr. Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/03/2018**

1. These are two appeals arising out of two awards, passed by the 2nd Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja, Chhattisgarh in two separate claim applications i.e. Motor Accident Claim Case No. 141/2011 and Motor Accident Claim Case 140/2011 decided on 12.01.2012.
2. Vide the impugned award, the Tribunal has awarded a compensation of Rs.3,24,000/- in Motor Accident Claim Case No. 141/2011 and Rs.3,00,000/- in Motor Accident Claim Case 140/2011. MAC No. 469/2012 arises out of the Motor Accident Claim Case No. 141/2011 and MAC No. 470/2012 arises out of the Motor Accident Claim Case No. 140/2011.
3. While passing the impugned award, the Tribunal has exonerated the Insurance Company of its liability and has fastened the liability of payment of compensation upon the present appellant-the Owner of the truck bearing registration No. CG/15/A/3865, which was being driven by the respondent no.3 at the time of accident.
4. The brief facts of the case is that the truck bearing registration No. CG/15/A/3865 met with an accident on 28.07.2008 and as a result of the accident, two persons Lalu Bhuiya and one Pintu Bhuiya sustained grievous injuries, to which they later succumbed. The legal representatives of the two deceased persons filed the claim applications, which stood decided vide the impugned award. The Insurance Company was exonerated on the ground that the deceased persons and other persons who were traveling on the truck has fare paid passenger as is evident from the statement of AW/2 Chamru, who has said that the said Driver had permitted them to board the Truck on assurance of payment of Rs.20/- for dropping

them from Balrampur to Ramanujganj. This evidence of Chamru has not been controverted or rebutted by the appellant herein in any manner.

5. Perusal of the record would show that the stand of the Claimant itself before the claims Tribunal was that the deceased persons died while traveling on the Truck. It was not the case of the Claimants that the deceased persons were traveling on the road when the accident occurred.
6. However, the stand which the Owner had taken before the Tribunal in his written statement was that the deceased persons were pedestrians, when they were hit by the Truck accidentally resulting in their death. This submission of the appellant has been disbelieved by the Tribunal because of the evidence of the Chamru and other related facts, which were brought on record including the contents of the criminal case records, which were produced before it registered promptly at the time of accident.
7. A perusal of the record would show that the Tribunal has taken into consideration the entire evidence which have come on record particularly the stand taken by each of the parties including the present appellant-Owner and thereafter reached to a conclusion based on the evidence which have come on record, particularly the evidence of a person, who was traveling on the said Truck on the date of accident i.e. Chamru.
8. Given the said facts and circumstances, this Court does not find any strong case made out by the appellant calling for an interference with the impugned award. Neither has the appellant made out a strong

case to hold that the award in any manner was perverse or contrary to evidence.

9. Thus, the two appeals being devoid of merit deserves to be and accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved