

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 557 of 2012

The New India Assurance Company Limited, Thakkar Chambers, Power House, Bhilai. (Insurer).

---Appellants

Versus

1. Shankar S/o Late Asharam Chauhan, aged about 32 years, R/o village Bawanlakh, Post Sarda, Tehsil Berla, Thana Berla, Zilla Durg (C.G.) (Claimant).
2. Pramod Kumar S/o Fekuram Verma, aged about 35 years, Sakin Jiya, Post Jevra, Thana Bemetra, Zilla Durg (C.G.) (Owner).

---Respondents

For appellant/Insurance Company	:	Ms.Chitra Shrivastava, Advocate.
For respondent No. 1	:	Shri R.K.Pali on behalf of Shri P.P.Sahu, Advocate.
For respondent No. 2	:	Ms.Sharmila Singhai, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/02/2018

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 21/03/2012 passed by the learned Additional Motor Accident Claims Tribunal, Bemetra, District Durg (C.G.) in Motor Accident Claim Case No. 97/2011.
2. Vide the impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.66,848/- with interest @ 6% per annum from the date of application.
3. The solitary ground raised by the counsel for the appellant is that, the offending vehicle in the instant case which is TATA SOE bearing registration

No. CG-04-JA-6063 was not having permit and fitness on the date of accident. She further submits that, they have led an evidence of one Pawan Agrawal, an employee of the Insurance Company to substantiate their contention.

4. Perusal of record would show that, except for the oral contention made by the said witness, there was no evidence led by the Insurance Company from the office of R.T.O. to show that the vehicle did not have a valid permit on the date of accident. Likewise, the Insurance Company also has not examined its investigator who must have investigated upon the matter to find out whether there was any permit available with the office of the R.T.O. or not?

5. Under the given circumstances, it is difficult to hold that the Insurance Company has been able to prove its case so as to absolve itself of its liability.

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

7. Another reason for this Court not being inclined to interfere with the impugned award is that, the impugned award is of the year-2012 and the Insurance Company has already deposited the entire amount which has also since been disbursed to the claimants.

8. Accordingly, the appeal stands rejected.

9. As a consequence, the cross objection also stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE