NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 957 of 2018

- United India Insurance Company Limited Amar Complex, Jivan Bima Road Pandari, Raipur, Chhattisgarh, Through Authorized Signatory United India Insurance Company Limited, Divisional Office, Bilaspur, 2nd Floor, Gurukripa Towers, Vyapar Vihar Road, Bilaspur, Chhattisgarh (Insurer), District : Bilaspur, Chhattisgarh

---- Appellant

Versus

1. Ramvishal Sahu S/o Late Chandu Lal Sahu Aged About 49 Years R/o Village Kanchana, P.S. Vidhan Sabha Raipur, Chhattisgarh (Claimant), District : Raipur, Chhattisgarh
2. Mahesh Rai S/o Premlal Rai Aged About 19 Years R/o Village Kuthrod, P.S. Suhela, District Balodabazar, Chhattisgarh (Driver), District : Balodabazar-Bhathapara, Chhattisgarh
3. Bharat Das Manikpuri S/o Shri Punudas Manikpuri Aged About 24 Years R/o Village Hirmi, P.S. Suhela, District Balodabazar, Chhattisgarh (Owner), District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents

For appellant : Mr. B.N. Nande, Advocate.
For respondents : None

SB: Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

31-7-2018

1. The appellant/Insurance Company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, “the Act, 1988”) against the award dated 6-3-2018 passed by the 9th Additional Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No. 48 of 2013 wherein the said Tribunal awarded compensation of Rs.83,000/- along with interest on account of the

injuries to the claimant/respondent No.1 Ramvishal Sahu in a motor accident on 9-12-2012.

2. As per the claim petition, the claimant/respondent No.1 was sitting in a motor cycle bearing registration No. CG 04 CK 8682 and going towards village Kachana and at the same time, driver of Tata Sumo bearing registration No. CG 04 TA 0380 driving the vehicle rashly and negligently dashed the motor-cycle as a result of which the claimant/respondent No.1 sustained injuries on various parts of his body and he was admitted in Medishine Hospital, Raipur and suffered permanent disability.

3. Learned counsel for the appellant/Insurance Company submits that the award passed by the trial Court is on higher side.

4. As per record of the tribunal, the bill amount for treatment is assessed to be Rs.50,000/- on the basis of medical bills produced before the Tribunal. Again the amount is awarded on account of loss of income for two months, for attendant, for pain and suffering and for special diet and transport which is based on settled principles and the award amount of Rs.83,000/- cannot be termed on higher side.

5. It is further contended on behalf of the appellant/Insurance Company that the driver of the offending vehicle was not having a valid and effective driving licence on the date of incident.

6. From the evidence of Rajesh Kumar Bhargav (NAW/3), who is Assistant Grade-3 of Transport Department (para 6), it is clear that he has not examined any record relating to driving licence of the offending vehicle. His evidence is shaky and, therefore, breach of insurance contract was not established on the basis of the evidence adduced by the Insurance Company.
7. Learned counsel for the appellant further submits that the vehicle was driven as Taxi, but no permission was obtained.
8. In view of this Court, no evidence is adduced before the Tribunal that anyone paid fare to the driver of the offending vehicle for travelling in the same vehicle. Unless it is proved that the vehicle is driven as taxi and the passenger occupied the said taxi after paying the fare, it cannot be said that the vehicle was used as taxi and, therefore, permit was not requited for personal vehicle.
9. In view of the above, the appeal *sans* merit is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

(**Ram Prasanna Sharma**)
JUDGE

Raju