

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 714 of 2014

- Branch Manager Sri Ram General Insurance Company Ltd. Rajiv Plaza, Bus Stand, Distt. Bilaspur C.G.

---- Appellant

Versus

1. Smt.Renu Devi W/o Late Ranjan Yadav Aged About 22 Years
2. Ku. Naina D/o Late Ranjan Yadav Aged About 3 Years
3. Ku. Jyoti D/o Late Ranjan Yadav Aged About 1 Years
4. Krishna Yadav @ Nanhat S/o Late Jagnarayan Singh Aged About 39 Years
5. Urmila W/o Nanhajat Aged About 41 Years
6. Akash S/o Late Ranjan Yadav Aged About 1 Years - claimants

Natural guardian Mother Smt. Renu Devi, Shakinan-Kachnibhiga, Post Kachwa, Distt. Rohtass Bihar Hall Mukam-Jyoti Nagar, Depka Korba.

7. Idrish Anshari S/o Habib Anshari R/o Godarmana Rehan, Distt. Pallum, Jharkhand, Hall Mukam- Near Tower Chakckakwa Pahar Katghora, Distt. Korba C.G. _ driver of truck No. CG 04 G 7522.
8. Smt. Yousada Dewangan W/o Ram Kumar Dewangan R/o Faura Chauk Bairun Bazar, Raipur, Hall Mukam- Jangal Side Bakimongra, Katghora, Distt. Korba C.G. - owner of truck No. CG 04 G 7522.

---- Respondents

For Appellant	:	Shri Deepak Gupta, Adv.
For Respondents/claimants	:	Shri Dashrath Kuchhwaha, Adv.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

03/12/2018

The appellant/insurance company by filing this appeal u/s 173 of

the Motor Vehicles Act, 1988 is challenging the award dated 31.10.2013 passed by Additional Motor Accident Claims Tribunal, Katghora (Korba) in Claim Case No.89/2011.

02. Claimant's case in brief is that on 3.5.2011 at around 10 pm while deceased Ranjan Yadav, 24 years old, working as helper-cum-mechanic, earning Rs.7000/- per month, was repairing truck bearing No. CG 04 G 7921, non-applicant No.1 Idrish Ansari by driving the offending vehicle truck bearing No. CG 04 G 7522, owned by non-applicant No.2 and insured with non-applicant No.3/appellant herein, in a rash and negligent manner dashed the deceased as a result of which the deceased suffered grievous injuries and died during treatment in the hospital.

03. On claim petition being filed by the claimants u/s 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties, granted a total compensation of Rs.13,13,500/- with interest @ 6% p.a. from the date of application till realization, fastening liability on non-applicants No. 1 to 3, jointly and severely.

04. Learned counsel for the appellant/insurance company submits that at the time of accident, driver of the offending vehicle non-applicant No.1 was not having a valid and effective driving licence and the owner also had no valid permit. In these circumstances, the Tribunal was not justified in fastening liability on the insurance company to satisfy the award. He further submits that income of the deceased was considered on the higher side at Rs.7000/- per month without any document and therefore, the compensation is also required to be reduced suitably.

05. On the other hand, learned counsel for the respondents/claimants supports the impugned award and submits that no appeal has been filed by the insurance company against the award passed in favour of Birendra Prasad Singh whose vehicle also got damaged in the said accident. This fact has been admitted by the learned counsel for the appellant/insurance company.

06. Having heard learned counsel for the parties and perused the material available on record, considering the facts and circumstances of the case, it is seen that there is no evidence adduced by the insurance company regarding breach of policy conditions that the driver was not having valid and effective driving licence or the owner was not having a valid permit for plying the offending vehicle. In the absence of any such evidence, learned Tribunal was justified in fastening liability upon the insurance company to indemnify the owner of the offending vehicle for the rash and negligent act of its driver.

07. As regards the quantum, the deceased was working as a helper in the truck. As per evidence adduced by the claimant wife Smt. Renu Devi, her husband/deceased was working as helper in the truck and was earning Rs.7000/- per month. There is no challenge to this fact in her cross-examination by the non-applicants. Claimant's witness No.2 Dilip has also stated in his deposition that the deceased was working as helper in the truck. Thus, keeping in view the pleadings of the claimants and the evidence adduced thereon, the Tribunal has rightly considered the income of the deceased as Rs.7000/- per month and there is no need to interfere with the said finding.

08. On the basis of aforesaid discussions, this Court finds that the

Tribunal considering all the relevant aspects of the matter has rightly awarded compensation to the claimants fastening liability on the insurance company jointly and severally along with driver and owner of the offending vehicle. Accordingly, the appeal preferred by the insurance company being without any substance is liable to be dismissed and is hereby dismissed.

Sd/

(Gautam Chourdiya)

Judge