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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 746 of 2016

Order reserved on 5-7-2018

Order passed on 24- 7-2018.

The Oriental Insurance Co. Ltd. Through Its Divisional Manager, Divisional Office, 1st Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil And Revenue Distt. Bilaspur, Chhattisgarh Pin-495001 ....Non-Applicant No.2, Chhattisgarh

---- Appellant

Versus

- Smt. Soni Jaiswal W/o Ramayan @ Ramnarayan Jaiswal, Aged About 34 Years Caste Kalar, At Jamrgi B, P.S. Bagbahar, Distt. Jashpur, Chhattisgarh ....Claimant.
- Ramayan @ Ramnarayan Jaiswal S/o Keshav Prasad Jaiswal, Aged About 37 Years Caste Kalar, At Jamargi B, P.S. Bagbahar, Tahsil Pathalgaon, Distt. Jashpur, Chhattisgarh ....Owner, District : Jashpur, Chhattisgarh

---- Respondents

For the appellant	:	Mr. Ratan Pusty and Mr. Pallav Mishra, Advocates.
For respondents	:	None

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. This appeal is preferred by the Insurance Company against the award dated 26-2-2016 passed by the Additional Motor Accident Claims Tribunal, Kunkuri, District Jashpur (CG) in Claim Case No. 35 of 2014, wherein the said Tribunal awarded compensation of Rs.1,17,500/- on account of death of one Vaishnavi who was a child of seven months of the claimant/respondent No.1.

2. The case, in brief, is that on 26-5-2014 deceased Vaishnavi was sitting in the vehicle Tata Sumo bearing registration No. UP 65 L 5982 along with claimant and due to rash and negligent driving of

the driver of the said vehicle, deceased sustained fatal injuries as a result of which the child died.

3. Learned counsel appearing for the appellant would submit that the daughter of the insured died during travelling in the vehicle and she was not a third party, therefore, the Insurance Company is not liable to pay the compensation.
4. I have gone through the impugned award passed by the Tribunal.
5. In view of this Court, the policy issued by the Insurance Company was a package policy and it was a comprehensive policy in which premium was paid for driver, owner, conductor and cleaner and sitting capacity of the vehicle was nine persons. In the matter of **Bhagyalakshmi and others vs. United Insurance Company Limited and another, reported in 2009 (7) SCC 148,** it is held that comprehensive policy covers the risk of gratuitous passengers to the extent of liability incurred. If owner or driver is driving the vehicle covered by comprehensive policy in which wife and children of the owner are sitting, then occupant in a vehicle is covered by the comprehensive policy, therefore, the argument advanced by the Insurance Company is not sustainable. The Tribunal awarded only Rs.1,17,500/- as compensation on account of death of a child which cannot be termed on higher side.

6. Considering all the facts and material available on record, this court is of the view that the finding arrived at by the Tribunal is not liable to be interfered with.
7. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju