

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1674 of 2017**

Smt. Seema Singh W/o Late Shri Ashok Singh, aged about 47 years, R/o Quarter No. B/137 Bharatpur Axtration Colony, South Bandra, Civil & Revenue District Angal (Odish) at present R/o Aamakherawa, Central Hospital Road Manendragarh Police Station & Tahsi Manedragarh, Civil & Revenue District Korla, Chhattisgarh. (Owner of the offending vehicle Bus No, C.G. 16/A/0676)

---- Appellant**Versus**

1. Kaushilya Bai W/o Late Shri Sukh Lal, aged about 43 years, Caste - Agariya , R/o Village Kothari , Police Station & Tahsil Manedragarh, Civil & Revenue District Korla, Chhattisgarh.
2. Ku. Savit D/o Late Shri Sukh Lal, aged about 18 years, Caste - Agariya , R/o Village Kothari , Police Station & Tahsil Manedragarh, Civil & Revenue District Korla, Chhattisgarh.
3. Ku. Mangali D/o Late Shri Sukh Lal, aged about 13 years, minor through her legal guardian mother Smt. Kaushilya Ba, Caste - Agariya, R/o Village Kothari, Police Station & Tahsil Manedragarh, Civil & Revenue District Korla, Chhattisgarh.
4. Vijay Kumar S/o Late Shri Sukh Lal, aged about 28 years, Caste - Agariya , R/o Village Kothari, Police Station & Tahsil Manedragarh, Civil & Revenue District Korla, Chhattisgarh.
5. Santosh Kumar S/o Late Shri Sukh Lal, aged about 25 years, Caste - Agariya, R/o Village Kothari, Police Station & Tahsil Manedragarh, Civil & Revenue District Korla, Chhattisgarh.
6. Ku. Anita D/o Late Shri Sukh Lal, aged about 19 years, Caste - Agariya, R/o Village Kothari, Police Station & Tahsil Manedragarh Civil & Revenue District Korla, Chhattisgarh. (Claimants)
7. Ashok Kumar Sharma @ Pappu Tiwari S/o Shri Janki Prasad Sharma, aged about 29 years, R/o Village Kelhari, Tahsil Manendragarh, Civil & Revenue District Korla Chhattisgarh . (Driver of the offending vehicle Bus No. C G 16 / A / 0676)

8. Branch Manager, H D F C Ego General Insurance Company Ltd. 1 St Floor 2nd Block, Bhoomi Sararwati Gajawala Lenbourwali (Dauble) Mumbai (Maharashtra) (Insurer of the offending vehicle Bus No. C G 16 / A / 0676)

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For Appellant : Shri Keshav Dewangan along with Shri Paras Mani Shriwas, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

12/01/2018

Present is an owner's appeal under Section 173 of the Motor Vehicles Act assailing the award dated 29.06.2017 passed by the 1st Additional Motor Accident Claims Tribunal, Manendragarh, District Korla (CG) in Motor Accident Claim Case No. 06 of 2015. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.3,91,000/- with interest @ 7% per annum from the date of application.

2. The Tribunal while passing the impugned award has exonerated the Insurance Company and has fastened the liability upon the appellant.

3. Contention of the counsel for the appellant is that the finding of the Tribunal is bad in law for the reason that the appellant herein had produced document Ex. NA-2 before the Tribunal which is a policy issued by respondent no.8 Insurance Company but the Tribunal has not appreciated the said document properly and has erroneously passed an order exonerating the Insurance Company. He submits that the Insurance Company has not properly searched the document and that there was no evidence led by the Insurance Company to conclusively hold that the document which has been produced by the appellant was a fake document.

4. However, perusal of the record would show that the Insurance Company has examined its Manager Prem Prakash Dwivedi who in his evidence has categorically deposed before the Tribunal that the policy which has been produced before the Tribunal to be a policy covering the risk of the offending vehicle when searched by the Insurance Company, was found to have not been issued from any of the branches of respondent no.8. It was also deposed by the said witness that the policy number and validity of the policy, on search, it was found that no premium against any such policy was received by the Insurance Company. Moreover, it was also deposed that the said policy was not in one of the formats which are used by respondent no.8 and that the computer system operational in respondent no.8 Insurance Company was not accepting the said document and on search, it was giving a result of 'No data found'. There is no strong evidence extracted from the cross-examination of this witness with which the version of this witness could be said to be either false or contrary to the evidence. In view of the same, the finding of the Tribunal cannot be said to be perverse.

5. Given the facts and circumstances of the case, this Court does not find any strong case made out for interfering with the impugned order. The appeal thus fails and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**