

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1656 of 2017**

H. D. F. C. Ergo General Insurance Co. Ltd. 1st Floor D 2, P. H. No. 22, Ward No. 30, Rani Laxminagar, Rama Magneto Mall, Bilaspur, District Bilaspur, Chhattisgarh At Present- Chawla Complex, Third Floor, Devendra Nagar, Sai Nagar Road, Raipur, Police Station Devendra Nagar, Civil And Revenue District Raipur, Chhattisgarh. (Insurer)

---- Appellant**Versus**

1. Manoj Kumar Kashyap, S/o Late Ashok Kumar Kashyap, Aged About 25 Years
2. Smt. Siddhi Bai Kashyap, W/o Manoj Kumar Kashyap, Aged About 23 Years

Both R/o Village Purana Basti Naila, Police Station- Janjgir-Champa, Chhattisgarh (Claimants)

3. Manish Kumar Raj, S/o Chhatram Raj Aged About 35 Years R/o Ranjana , Police Station Dipka, District Korba, Chhattisgarh (Driver)

----Respondents

For Appellant	:	Mr. Rohitashva Singh, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/01/2018**

1. Heard on I.A. No.1, which is an application for condonation of delay.
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 21 days in filing the appeal stands condoned.
2. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 28.07.2017, passed by the 2nd Additional Motor Accident Claims Tribunal, Korba, Chhattisgarh, in Claim Case No. 17/2015. Vide the impugned award in a death case of a child the Tribunal has awarded a compensation of Rs.1,65,000/- with interest @8% per annum from the date of application.

3. The solitary contention of the counsel for the appellant is that the vehicle involved in the accident itself is doubtful and that when the complaint was lodged immediately after the accident, the different number of vehicle was provided. However, subsequently when the F.I.R. was lodged and charge sheet was filed, the vehicle belonging to the respondent no.3 was projected to be involved in the accident.
4. The counsel for the appellant submits that it is a case where the Driver of the said vehicle himself had entered appearance before the Tribunal and has stated that he was not driving the vehicle at the time of accident and that he was on the said date positioned at a different place i.e. in the office of the District Election Officer, District Janjgir-Champa. He further submits that the Tribunal should have atleast called upon the register from the office of the District Election Officer to ensure whether the Driver was present in the office on the said date or not. He thus prayed for the setting aside of the award and the liability which has been fastened upon the Insurance Company be set-aside.
5. Having heard the contentions put forth by the counsel for the appellant and on perusal of record, the admitted fact remains that though initially a different vehicle number was provided, but after due investigation the vehicle belonging to the respondent No.3 was found to be involved in the accident. A criminal case has already been lodged which is pending consideration before the Criminal Court. The respondent No.3 is being prosecuted in the said criminal case. Further, what is also relevant to take note of the fact is that an

eyewitness namely Narendra Kashyap (AW-3) was also examined in support of the contention of the Claimants.

6. Given the factual matrix of the case, this Court does not find any strong case made out by the Insurance Company calling for an interference with the impugned award and there does not seem to be any procedural lapse also to have been committed by the Tribunal.
7. Thus, the appeal fails and the same is rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved