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HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 586 of 2015

1. Smt. Satya Bhuwal W/o Shri P.S. Bhuwal R/o A-7 Adarsh Nagar, Tehsil And District-Durg, C.G. Through Her Son Power Of Attorney Holder Namely Anup Singh Bhuwal S/o Shri P.S. Bhuwal, R/o A-7 Adarsh Nagar, Tehsil And District Durg, Chhattisgarh.
2. Prabhulal S/o Dayaram Aged About 50 Years R/o Village Kotni, P.S. - Pulgaon, District- Durg, Chhattisgarh.

---- Appellants

Versus

1. Dinu Thakur S/o Hariya Thakur Aged About 29 Years R/o Open Theatre, Behind Civic Centre, Bhilai, District- Durg, Chhattisgarh.
2. National Insurance Company Ltd. Through Its Divisional Manager Gill Complex, Near Gurudwara, Station Road, Tehsil And District-Durg, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Pallav Mishra, Advocate.
For Insurance Co.	:	Shri Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

19.02.2018

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the owner against the award dated 28.01.2015 passed by the 6th Additional Motor Accident Claims Tribunal, Durg (in short, the Tribunal) in Claim Case No.34/2012. Vide the impugned award, the Tribunal has awarded compensation of Rs.72,250/- along with interest @ 6 percent per annum from the date of application.
2. While passing the award, the liability of payment of compensation has been fastened upon the appellant-owner and has exonerated the insurance company from its liability.

3. The contention of the appellant-owner is that during the proceedings before the Tribunal, he could not lay hand on the insurance policy of the offending vehicle, however, in the appeal he has produced a copy of policy of the offending vehicle valid at the relevant point of time which has been marked as Ex. A/3. He submits that in the light of the offending vehicle being duly insured at the relevant point of time, the liability of payment of compensation therefore may suitably be modified and the insurance company may be directed to indemnify the owner and the liability accordingly be shifted upon the insurance company.
4. Shri Dashrath Gupta, appearing for the insurance company had on the previous date taken time to verify the contents of the insurance policy. Today, on due verification of the policy, he fairly submits that the offending vehicle at the relevant point of time had a valid policy.
5. In the light of the submissions made by the counsel for the parties, this court has no hesitation in reaching to the conclusion that the finding of the Tribunal to the extent of liability being fastened upon the appellant-owner deserves to be shifted upon the insurance company and the same is accordingly ordered.
6. It is ordered accordingly and the impugned award stands modified inasmuch as the liability of payment of compensation shall now fall jointly and severally upon the owner,driver and the insurance company and the responsibility of payment of compensation shall be that upon the insurance company.
7. It is made clear that the insurance company shall deposit the entire

amount before the Tribunal and the amount which has been deposited by the appellant-owner while filing the appeal, he shall be entitled for the refund of the same.

8. The appeal thus allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder