NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 692 of 2015

The Oriental Insurance Company Limited, Divisional Office No.1, Raipur, District Raipur (Insurance Company).

---Appellant

Versus

1. Smt.Daneshwari W/o Late Kishan Kumar Sahu, age 21 years.
2. Ku.Jaya D/o Late Kishan Kumar Sahu, age 3 years.
3. Ku.Neha D/o Late Kishan Kumar Sahu, age 1 year.
   Respondents No.2 & 3 are minor, through Guardian Mother No.1 Smt.Daneshwari.
4. Raghuveer Sahu S/o Ghursai Sahu, age 45 years.
5. Smt.Uttara W/o Raghuveer Sahu, age 43 years.
   All are R/o village Bahera, PO.Kusmi, Thana Berla, District Bemetara (C.G.).
6. Krisn Kumar Sen S/o Laxman Sen, age 38 years, R/o village Mulmula, PO Tarai, Thana and District Bemetara (C.G.) (Vehicle Driver).
7. Aakash Singh Gil S/o Shri Lakhwant Singh Gil, Pro.New Jeevan Bus Service, Pandri, Raipur (Vehicle Owner).

---Respondents

For appellant/Insurance Company : Shri Sudhir Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/02/2018

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 27/02/2015 passed by the learned Additional Motor Accident Claims Tribunal, Bemetara (C.G.) in Motor Accident Claim Case No.24/2015.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.8,04,000/-.

3. The challenge in the present appeal is on the ground that, the Tribunal has not properly appreciated the contributory negligence aspect so also the deduction made is also on the higher side and therefore the amount of compensation awarded deserves suitable modification.

4. Perusal of record would show that, the Insurance Company in the instant case has not led any evidence before the Tribunal to substantiate any of their contentions.

5. The ground of contributory negligence raised by the counsel for the Insurance Company was only on the ground that, three persons were traveling on the Motorcycle. The said ground is not a strong ground for absolving the Insurance Company of its liability as has been settled by a catena of decisions.

6. Further the ground of there was a head on collision also is not sustainable for the simple reason that, there is no evidence to show that the deceased had crossed over the road on the wrong side and had met with head on collision with the vehicle coming from opposite direction.

7. So far as Ex-P/2 is concerned which has been referred to by the claimant by itself cannot be a strong base for the Insurance Company to claim exoneration of the payment of compensation part.

8. In the absence of any evidence led by the Insurance Company, the appeal fails and deserve to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit