

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 538 of 2014

- National Insurance Company Ltd. 1st Floor, B-1 Taha Complex, Ring Road, P.S. Civil Line, Priyadarshini Nagar, Tah. And Distt. Bilaspur C.G.

---- Appellant/Insurer

Versus

1. Smt. Sukriti Sahu W/o Late Sewak Ram Sahu Aged About 19 Years
2. Smt. Rameshwari Sahu W/o Siddh Ram Sahu Aged About 48 Years (Dead)

Both R/o Village-Kargikala, Tah. Kota, Distt. Bilaspur C.G.

2a. Salik Ram Sahu S/o Late Siddh Ram Sahu Aged About 32 Years R/o Village-Kargikala, Tah. Kota, Distt. Bilaspur C.G.

2b. Smt. Santoshi D/o Late Siddh Ram Sahu Aged About 30 Years R/o Village-Kirari, P.S. Masturi, Distt. Bilaspur C.G.

3. Sheikh Hafizuddin S/o Sheikh Kutubuddin Aged About 52 Years R/o Chaitma Basti, P.S. Pali, Distt. Korba C.G., Business Address- Through- Mohammad Naved, S/o Haji Mohammad Bukhari, Tyres, Link Road, Mitra Vihar, P.S. Civil Lines, Bilaspur C.G. - Driver
4. Mohammad Naved S/o Haji Mohammad Bukhari Tyres, Link Road, Mitra Vihar, P.S. Civil Lines, Bilaspur C.G. - owner.

---- Respondents

For Appellant	:	Shri Raj Awasthi, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

07/01/2019:

This appeal is filed by the insurance company under Section 173 of the Motor Vehicles Act, 1988 (in short "the Act") challenging the

award dated 19th December, 2013 passed by 1st Motor Accident Claims Tribunal, Bilaspur in Claim Case No.265/2010, awarding compensation of Rs.6.60 lacs in favour of claimant/wife of the deceased with interest @ 6% per annum from the date of application till realization, fastening liability on the insurance company jointly and severally along with driver and owner of the offending vehicle.

02. As per averments in the claim petition, on 15.7.2012 while Sevakram, 21 years of age, earning Rs.5000/-, was going on motorcycle along with his friend Poonak Nirmalkar from Village – Kargikala to Parsada, his vehicle was dashed near Kali Mandir, Tifra by truck-tanker bearing No. CG 10 C 2238 which was being driven in a rash and negligent manner by non-applicant No.1 Sheikh Hafizuddin. As a result thereof, Sevakram suffered grievous injuries and died on the spot. Offence under Sections 304A and 338 of IPC was registered against non-applicant No.1 by the police.

03. On claim petition being filed by the claimants, wife, brother and sister of the deceased, under Section 166 of the Act claiming compensation of Rs.10,91,932/- under various heads, the Tribunal considering the evidence led by both the parties, by the impugned award granted compensation as mentioned above.

04. Learned counsel for the appellant/insurance company has assailed the impugned award solely on the ground that at the time of occurrence of accident non-applicant No.1 Sheikh Hafizuddin was not having a valid and effective driving licence as the offending vehicle was carrying inflammable and hazardous substances, for which endorsement in the driving licence is required but there is no such

endorsement in the driving licence of non-applicant No.1. Therefore, the Tribunal was not justified in fastening liability on the insurance company and on account of there being breach of policy conditions, it was liable to be exonerated of its liability.

05. Heard learned counsel for the appellant and perused the material available on record including the impugned award.

06. As per NA-1 i.e. insurance policy of the offending vehicle, the same was duly insured with the appellant at the time of accident. As per NA-2 i.e. particulars of the driving licence, non-applicant No.1 was having licence for driving LMV and HGV and its validity was from 1.1.1985 till 5.5.2011. This fact is also proved by Ex.NA-3 i.e. report of investigator of the insurance company. Therefore, from the above, it stands proved that on the date of accident, non-applicant No.1 was having a valid and effective licence to drive LMV and HGV. No evidence has been adduced by the insurance company that the offending vehicle was carrying any inflammable or explosive or hazardous goods at the time of accident. Being so, there was no need for any endorsement in the driving licence of non-applicant No.1 for driving the said vehicle.

07. For the reasons stated above, this Court finds no substance in the appeal preferred by the insurance company and same is, accordingly, dismissed.

**Sd/
(Gautam Chourdiya)
Judge**