NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 734 of 2014

- The Oriental Insurance Company Ltd., Madina Manzil, Kachahari Chowk, Raipur, Tahsil and Distt. Raipur C.G.

---Appellant

Versus

1. Smt. Ram Bai Sahu W/o Ramlal Sahu Aged About 43 Years R/o Village- Pond, P.S. Rajim, District Gariyaband C.G.

2. Ramlal S/o Late Milan Ram Sahu Aged About 48 Years R/o Village- Pond, P.S. Rajim, District Gariyaband C.G.

---- Respondents

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

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

18/02/2019

1. Heard on admission.

2. This is insurer's appeal against the award dated 26.04.2014 passed by the Additional Motor Accidents Claims Tribunal, Gariyaband, C.G. in claim case no. 63/13.

3. As against the compensation of Rs.07,70,000/- claimed by the Mother of deceased – Hemant Kumar Sahu, by filing claim application under Section 163(A) of the Motor Vehicles Act, 1988 (for short 'the Act') for his death in the motor accident on 15.08.2012, the Tribunal awarded a total sum of Rs.1,00,000/- as compensation along with interest @ 6% per annum from the date of application till its actual payment, fastening the liability upon the Insurance Company.

4. The Tribunal, on a close scrutiny of the evidence led by the parties

held that on 15.08.2012, deceased Hemant Kumar Sahu, aged about 20 years, earning Rs.40,000/- as Private Job by riding motorcycle bearing no. CG04-DY-8704, owned by non-applicant no.1/respondent no.2 and insured with non-applicant no.2/appellant herein was going from village Kaundkera to his house. However, near Forest Barrier at village Panduka the deceased while trying to save the handcart of fency articles vendor from being hit by his vehicle, the vehicle got uncontrolled and the deceased fell down from it. As a result of this accident, Hemant Kumar Sahu suffered grievous injuries and died during treatment on 22.08.2012.

5. Learned counsel for the appellant/Insurance Company submits that the Tribunal has wrongly fastened liability on the Insurance Company of paying Rs.1,00,000/- to the claimants because as per Insurance company, the risk of owner driver and the third party was covered. In this case, the deceased was neither owner of the vehicle nor was the third party.

6. Heard learned counsel for the appellant and perused the record.

7. As regards the quantum of compensation, from the pleadings of the parties and the evidence adduced by them its proved that on the date of accident the deceased was riding the motorcycle after borrowing the same from its owner and as such he had stepped into the shoes of the owner. It is not in dispute that the said motorcycle was duly insured with the appellant/Insurance Company for a period from 19.05.2012 to 18.05.2013 and the accident occurred on 15.08.2012. Further it is also not in dispute that the Insurance Company had taken premium of Rs.50 towards PA coverage of owner driver and its maximum liability for the owner driver was limited to Rs.1,00,000/-.

8. The Tribunal considering the facts and circumstances of the case, pleadings of the respective parties and the evidence adduced in support thereof, the fact that the deceased had stepped into the shoes of the owner, as per Insurance Policy premium of Rs.50 was taken by the Insurance Company towards PA coverage of owner driver and keeping in view the judgments of the Hon'ble Supreme Court in the matters of ***Oriental Insurance company Limited Vs. Rajni Devi and others (2008) 5 SCC 736 & Ningamma Vs. United India Insurance Co. Ltd. AIR 2009 (SC) 3056*** has fastened the liability on Insurance Company of paying Rs.1,00,000/- to the claimants as compensation with interest as aforementioned***.*** This Court finds no illegality or infirmity in the findings so recorded by the Tribunal.

9. In the result, appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed. Insurance Company is held liable to pay the entire amount of compensation to the claimants.

Sd/-
Gautam Chourdiya
Judge

Akhilesh