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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 612 of 2014

- Branch Manager, Future General India Insurance Co. Ltd. Shop No. 3 Second Floor, Maruti Business Park, Near Dhuppad Pump, P.S. Saraswati Nagar, Distt. Raipur C.G.,

---- Appellant

Versus

1. Motilal Verma S/o Johan Lal Aged About 55 Years, Profession Agriculture,

2. Nandkumari W/o Motilal Verma Aged About 48 Years, Prof. Housewife.

3. Priti Verma W/o Durjendra Verma Aged About 20 Years, Prof. Housewise,

4. Jashmi Verma D/o Motilal Verma Aged About 22 Years, Prof. Student.

5. Suraj Verma S/o Motilal Verma Aged About 18 Years, Prof. Student

All R/o Madmara, P.S. Pandatarai, Tah. Pandariya, Distt. Kabirdham C.G.

---- Respondents

For Appellant	:	Shri NK Thakur, Advocate.
For Respondents	:	Shri Ajit Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

07/03/2019

This appeal is by the insurance company under Section 173 of the Motor Vehicles Act, 1988 against the award 13.3.2014 passed by Motor Accident Claims Tribunal, Kabirdham (Kawardha) in Claim Case No.72/2013 awarding total compensation of Rs.4.15 lacs with interest @ 7.5% per annum from the date of application till realization, fastening liability on the non-applicant/insurance company.

02. As per claim petition, on 4.6.2013 while Durjendra Verma was driving Hundai Car bearing No. CG 09 J 0568, due to some mechanical fault the said vehicle got uncontrolled and dashed against a tree as a result of which he suffered grievous injuries and died on the spot. The vehicle was owned by the deceased and insured with non-applicant/insurance company.

03. On claim petition being filed by the claimants, parents, wife, brother and sister of the deceased under Section 163A of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellant/insurance company submits that the Tribunal has wrongly fastened liability on the insurance company of paying the entire amount of compensation of Rs.4.15 lacs to the claimants whereas the insurance company is liable to pay only Rs. 2 lacs as compensation against the death of the deceased/owner as against the premium of Rs.100/- taken by the insurance company towards PA coverage of owner-driver, its liability is limited to Rs.2 lacs only vide insurance policy of Ex.A/11

05. On the other hand, learned counsel for the respondents/claimants supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

06. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

07. Heard learned counsel for the parties and perused the material available on record.

08. Admittedly, the deceased was owner of the vehicle in question and was not a third party. As per Ex.A/11 i.e. insurance policy, it is evident that the insurance company had taken premium of Rs.100/- towards PA coverage of owner-driver and its liability to owner-driver is limited to Rs. 2 lacs only. Therefore, considering the terms and

conditions of the insurance policy and the decisions of the Hon'ble Supreme Court in ***Ningamma vs. United India Insurance Co. Ltd. AIR 2009 (SC) 3056*** and ***Oriental Insurance company Limited Vs. Rajni Devi and others (2008) 5 SCC 736***, this Court is of the opinion that the Tribunal was not justified in fastening liability of paying compensation amount of Rs.4.15 lacs on the insurance company and it is liable to pay only Rs.2 lacs to the claimants as compensation against the death of the deceased/owner.

09. In the result, the appeal is allowed in part. The impugned judgment is hereby modified to the extent that the insurance company is liable to pay Rs.2 lacs with interest @ 7.5% per annum from the date of application till realization to the claimants. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge

Khan