AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1020 of 2013

- The Oriental Insurance Company Limited, Through its Divisional Manager, Divisional Office, Ist Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Revenue and Civil District Bilaspur (C.G.) PIN-495001

---- Appellant/Insurer/Non-applicant No.2

Versus

1. Rajesh Sahu, S/o late Gendlal Sahu, aged about 27 years
2. Smt. Parvati Sahu, Wd/o late Gendlal Sahu, aged about 45 years

   Note: Both the Respondents No.1 and 2 are R/o Village Khamhardih, P.S. & Tahsil Khairagarh, Civil & Revenue District Rajnandgaon (C.G.)

   (Claimants)
3. Rajendra Prasad Dubey, S/o Rameshwar Prasad Dubey, aged about 30 years, R/o Village Piplakachhar, P.S. & Tahsil Khairagarh, Civil & Revenue District Rajnandgaon (C.G.)

   (Non-applicant No.1/Owner-cum-Driver)

---- Respondents

For Appellant	:	Shri R.N. Pusty, Advocate
For Respondent 1 & 2	:	Shri Dashrath Prajapati, Advocate
For Respondent No. 3	:	Shri R.R. Soni, Advocate appears on behalf of Shri Rakesh Pandey, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

25.04.2019

1. Being aggrieved with the award dated 25.07.2013 passed in MACC No. 01 of 2012 by the Additional Motor Accident Claims Tribunal, Khairagarh, District Rajnandgaon (C.G.), the Appellant/Insurance Company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the liability fastened upon it.

2. Facts of the case, in brief, are that on 15.12.2011 when deceased- Gendlal Sahu was going on Motorcycle bearing registration No. CG-08/J/8898 from his Village Khamhardih to Pandadah in connection with banking work, non-applicant No.1- Rajendra Prasad Dubey, rider-cum-owner of the offending vehicle Hero Honda CD Delux bearing registration No. CG-08/NA/2885, insured with non-applicant No.2, driving the said vehicle in a rash and negligent manner, dashed Gendlal Sahu. As a result thereof, Gendlal Sahu sustained grievous injuries and when he was being taken to Khairagarh for treatment, Gendlal Sahu died on the way.

3. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.3,21,500/- in favour of the Claimants/Respondent No. 1 & 2 herein with interest @ 6% per annum from the date of filing of the application till realization and has fastened the liability upon the Appellant/non-applicant No.2 to pay compensation to the Claimants.

4. Learned counsel for the Appellant/Insurance Company submits that the Tribunal has wrongly fastened the liability on the Insurance Company as at the time of accident i.e. on 15.12.2011, Rajendra Prasad Dubey/non-applicant No.1 was only having a licence for light motor vehicle (LMV) and was not having a valid and effective licence for driving the motorcycle with gear. He also submits that the document (Ex.-D/2) produced before the Tribunal and the particulars given in that document only licence for LMV issued in favour of non-applicant No.1- Rajendra Prasad Dubey, but on the basis of tick-mark for motorcycle with gear on the original licence of non-applicant No.1, the Tribunal has fastened the liability on the Insurance Company.

5. On the other hand, learned counsel for the Respondents supports the impugned award insofar as it relates to fastening of liability on the Insurance Company/non-applicant No.2.

6. Heard the learned counsel for the parties and perused the impugned award including the records of the Claims Tribunal.

7. According to the seizure memo (Ex.-P/6), the validity of driving licence of non-applicant No.1- Rajendra Prasad Dubey is from 21.03.2002 to 30.03.2022 and the Insurance Company examined one Chetan Prasad as NAW-1 who admitted in para-2 of his evidence that original driving licence of Rajendra Prasad Dubey/non-applicant No.1 was produced before the Tribunal and copy of that original driving licence was received by him in which it was mentioned that the driving licence for light motor vehicle and it was also tick-mark for the motorcycle with gear. Therefore, as per admission of Chetan Prasad (NAW-1) examined by the Insurance Company, it was proved that the driving licence produced before the Tribunal is valid and effective for light motor vehicle as also the motorcycle with gear. As per Ex.-D/2 driving licence of non-applicant No.1 produced by the Insurance Company, the particular given in that document only the licence for light motor vehicle, but the Insurance Company has not examined R.T.O. authority in its favour.

8. Further, as per finding of the Tribunal given in para-15 in the award impugned that it was discussed that the driving licence for light motor vehicle as also motorcycle with gear produced by the Insurance Company was issued on 21.03.2002 in favour of non-applicant No.1 and valid & effective till 30.03.2022 and the Tribunal was justified in fastening the liability on the Insurance Company. Therefore, this Court finds no illegality or infirmity in the findings recorded by the Tribunal holding the Insurance Company/non-applicant No.2 liablie for satisfying the award.

9. In the result, the appeal being without any substance is liable to be dismissed and is accordingly dismissed.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge

vatti