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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 145 of 2014

- United India Insurance Company Limited Branch Manager, Branch Office- Ambikapur C.G., Through Its Divisional Manager, Divisional Office- 2nd Floor Guru Kripa Towers, Vyapar Vihar Road, Bilaspur, District Bilaspur C.G.

---- Appellant

Versus

1. Kanti Bai Wd/o Late Gharbharan Aged About 36 Years
2. Ku. Gulbasiya D/o Late Gharbharan Aged About 18 Years
3. Shanidev S/o Late Gharbharan Aged About 16 Years

   Respondent No.3 is minor, Through- Mother Smt. Kanti Bai (Respondent No.1)

   Respondent Nos. 1 to 3 all are Gond by caste & are R/o Village Ketka, P.S. And Tah. Surajpur, Distt. Surajpur C.G.

4. Ram Pratap S/o Natghu Ram Aged About 55 Years Caste Ghasiya, R/o Haldi Badi Chirmiri, P.O. Haldibadi, Distt. Korea C.G.

---- Respondents

For Appellant Shri Dashrath Gupta, Advocate.
For Respondents None.

Hon'ble Shrie Justice Gautam Chourdiya

Judgment on Board

07/02/2019

1. This is insurer's appeal against the award dated 11/11/2013 passed by the Motor Accidents Claims Tribunal, Surajpur, District Surajpur, C.G. in claim case no. 80/10.

2. As against the compensation of Rs.11,70,000/- claimed by the unfortunate widow and children of deceased – Gharbharan Singh, 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

14.12.2003, the Tribunal awarded a total sum of Rs.1,00,000/- as compensation along with interest @ 8% per annum from the date of application till its actual payment, fastening the liability upon the Insurance Company.

3. The Tribunal, on a close scrutiny of the evidence led by the parties held that on 14.12.2003 deceased Gharbharan Singh by drivig motorcycle bearing registratin no. CG16/3037 was coming to his home from village Dedary. On the way near village Sapkar a due to sudden break of wire of the motorcycle incident took, as a result thereof Gharbharan received grievous injuries on his body and during treatment in the hospital he died.

4. 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-cum-driver and the third party was covered. In this case, the deceased was neither owner of the vehicle nor was the third party.

5. Heard learned counsel for the appellant and perused the impugned award.

6. 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 15.10.2003 to 14.10.2004 and the accident occurred on 14.12.2003. 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-cum-driver was limited to Rs.1,00,000/-.

7. 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 matter of ***Oriental Insurance company Limited Vs. Rajni Devi and others (2008) 5 SCC 736*** has fastened the liability on Insurance Company of paying Rs.1,00,000/- to the claimants as compensation with interest as aforementioned. The aforesaid finding of the Tribunal is also in accordance with principles of law laid down by the Hon'ble Supreme Court in the matter of ***Ningamma Vs. United India Insurance Co. Ltd. AIR 2009 (SC) 3056.*** This Court finds no illegality or infirmity in the findings so recorded by the Tribunal.

8. 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