NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1467 of 2015

- National Insurance Company Limited Through Branch Office, Jain Auto Care, Ganjpara Balod, District Balod Chhattisgarh.

----Appellant

Versus

1. Smt. Narbada Bai W/o Late Shri Birendra Kumar Patel, Aged About 30 Years
2. Ku. Tarini D/o Late Shri Birendra Kumar Patel, Aged About 9 Years
3. Arvind S/o Late Shri Birendra Kumar Patel, Aged About 7 Years

   Respondent nos. 2 & 3 being minor, through Natural Guardian Mother Smt. Narbadabai, W/o Late Shri Birendra Kumar Patel, Aged About 30 Years,
4. Khemlal Patel S/o Late Shri Lalaram Patel, Aged About 64 Years
5. Smt. Shanti Bai W/o Shri Khemlal Patel, Aged About 60 Years

   All are R/o Village Ghoghopuri, Post Tarri, P. S. And Tahsil - Gurur, District Balod Chhattisgarh.

---- Respondents

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

Hon'ble Shri Justice Gautam Chourdiya

Judgment on Board

22/02/2019

This appeal is by the Insurance Company/non-applicant against the award 10.08.2015 passed by the 1^{st} Additional Motor Accident Claims Tribunal, Balod, District Balod, C.G. in Claim Case No.156/14 awarding total compensation of Rs.1,00,000/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on the Appellant/Insurance Company.

02. As per claim petition, on 10.08.2014 deceased Birendra Kumar Patel, 33 years, earning Rs.6,000./- per month as Labour, died in the motor vehicular accident caused due to rash and negligent riding of Motorcycle Bajaj CT-100 bearing no. CG08-F-5627. However, the driver and owner of the offending vehicle could not be traced out. At the time of accident, offending vehicle was insured with non-applicant/insurance company.

03. On claim petition being filed by the claimants i.e. wife, children and parents of deceased under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. Learned counsel for the appellant submits that as per Insurance Policy (Ex.D-1) additional premium of Rs.50/- has been paid for additional risk coverage of owner of motorcycle upto the extent of Rs.1,00,000/-. He further submits that as per terms of insurance policy and coverage, claimants were required to raise their claim under PA coverage directly to the appellant/Insurance Company and if Insurance Company denies its liability upto the extent of Rs.1,00,000/- then their further legal remedy would be under the provisions of Consumer's Protection Act, 1986 but not under Section 166 of the Motor Vehicles Act.

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

06. It is true that as per Insurance Policy Ex.D-1 insured/owner has taken additional risk coverage of Rs.1,00,000/- by paying additional

premium of Rs.50. It also appears from the impugned award that considering this available coverage claimants restricted their claim upto the extent of covered risk and accordingly by accepting the prayer made by the claimants learned Tribunal has awarded only Rs.1,00,000/-. Considering the facts and circumstances of the case as also the submission made by the appellant's counsel, I am of the opinion that as learned Tribunal has awarded Rs.1,00,000/- which is within the acceptable limit of risk covered under the policy for which the premium of Rs.50/- was paid by the owner, I do not find any ground to interfere in the award.

07. Consequently, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh