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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 844 of 2014**

- Vishambhar Goyal S/o Kedarnath Goyal, aged about 55 Years R/o Ward No. 2, Station Road, Bilha, Tah. Bilha, Distt. Bilaspur C.G.

----Appellant**Versus**

1. Manoj Kumar Sahu S/o Baldau Sahu, aged about 28 Years
2. Smt. Roshni Sahu W/o Manoj Kumar Sahu, aged about 23 Years
3. The New India Assurance Company Ltd., Through- Branch Manager, Branch Office- In Front Of Rajiv Plaza, Bus Stand, Bilaspur C.G.
4. Sumrit Das Manikpuri S/o Sukritdas, aged about 38 Years R/o Ward No. 08, Bilha, Thana- Bilha, Tah. Bilha, Distt. Bilaspur C.G.

---- Respondents

For Appellant	Shri Vipin Singh, Advocate.
For Respondent/Insurance Company	Shri H.P. Agrawal, Advocate.

MAC No. 845 of 2014

- Vishambhar Goyal S/o Kedarnath Goyal, aged about 55 Years, R/o Ward No. 2, Station Road, Bilha, Tah. Bilha, Distt. Bilaspur C.G.

---- Appellant**Versus**

1. Smt. Roshni Sahu W/o Manoj Kumar Sahu, aged about 23 Years R/o Keshla, P.S. And Tah. Bilha, Distt. Bilaspur C.G.
2. The New India Assurance Company Ltd., Through- Branch Manager, Branch Office- in Front of Rajiv Plaza, Bus Stand, Bilaspur C.G.
3. Sumrit Das Manikpuri S/o Sukritdas, aged about 38 Years R/o Ward No. 08, Bilha, Thana- Bilha, Tah. Bilha, Distt. Bilaspur C.G.

---- Respondents

For Appellant	Shri Vipin Singh, Advocate.
For Respondent/Insurance Company	Shri H.P. Agrawal, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

30/04/2019

1. As both these appeal filed by Owner of the vehicle arise out of the separate awards dated 26.04.2014 passed by the 4th Additional Member to the 1st Additional Motor Accident Claims Tribunal, Bilaspur, C.G. in Claim Case No.49/2013 in MAC No.844/2014 and 25.04.2019 passed by the 4th Additional Member to the 1st Additional Motor Accident Claims Tribunal, Bilaspur, C.G. Claim Case No.50/2013 in MAC No.845 of 2014, involving the same vehicle, they are being disposed of by this common judgment.
2. As per averments in the claim petitions, on 03.03.2012, claimant/injured Smt. Roshni Sahu along with her son Somya Sahu aged about 11 months by travelling in the Auto bearing no.CG04-T-1586 was going to village Koshla. However, on the way non-applicant no.1 by driving truck bearing no. CG10-ZB-0981 owned by non-applicant no.2 and insured with non-applicant no.3, in a rash and negligent manner dashed the auto, as a result of which Somya Sahu suffered grievous injuries and died while being taken to hospital for treatment. Smt. Roshni Sahu suffered grievous injuries in the said accident on her head, legs and chest as also fracture on right hand finger.
3. On claim petition i.e. Claim Case No.49/2013 being filed by the claimants i.e. parents of deceased Soumya Sahu u/s 166 of the Motor Vehicles Act claiming compensation of Rs.30,60,000/- under various heads, the Tribunal considering the evidence led

by the parties, by the impugned award granted a total compensation of Rs.1,65,000/- with interest @ 6% p.a from the date of application till its realization, fastening the liability on non-applicants no. 1 & 2 while exonerating Insurance Company/non-applicant no.3 on the ground of breach of policy conditions.

On claim petition i.e. Claim Case No.50/2013 being filed by the claimant/injured Smt. Roshni Sahu u/s 166 of the Motor Vehicles Act claiming compensation of Rs.10,95,000/- under various heads, the Tribunal considering the evidence led by the parties, by the impugned award granted a total compensation of Rs.25,000/- with interest @ 6% p.a. from the date of application till its realization, fastening the liability on non-applicants no. 1 & 2 while exonerating Insurance Company/non-applicant no.3 on the ground of breach of policy conditions.

4. MAC No.844 of 2014 arises out of claim case no.49/2013 whereas MAC No.845 of 2014 arises out of claim case no.50/13.
5. Learned counsel for the appellant submits that at the time of accident driver of the offending vehicle had a valid and effective driving licence to drive the vehicle as per Ex.D-1(C), therefore, learned Tribunal wrongly exonerated the Insurance Company and fastened the liability upon non-applicants no. 1 & 2 on the ground that the offending vehicle was driven by non-applicant no.1 was a heavy goods vehicle and driver of the offending vehicle was having only LMV. He further submits that the amount awarded by the Tribunal is on higher side and needs to be reduced suitably.
6. On the other hand, learned counsel for the respondent/insurance

company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.

7. Heard both the parties and perused the material available on record including the impugned award.
8. As per Ex.D-1(C) particular of driving licence proved by non-applicant no.3, driver was having a light motor vehicle driving licence for private vehicle and its validity was from 12th March, 1999 to 11th March 2019. It is not disputed by both the parties that the vehicle driven by the non-applicant no.1 and owned by non-applicant no.2 is a heavy goods vehicle Truck as per particulars submitted before the Tribunal. Even as per Ex.D-3 i.e. Insurance Policy its gross weight is 15,660. Thus, the offending vehicle involved in the accident is a heavy goods vehicle, therefore, learned Tribunal rightly exonerated Insurance Company and fastened liability on the non-applicant nos. 1 & 2.
9. So far as the compensation granted to the injured/claimant in claim case no.50/13 is concerned, the Tribunal considering the nature and extent of injuries suffered by the claimant, the fact that no medical bill regarding treatment taken by her was produced, no Doctor was examined by her and also that no document regarding her income has been filed, granted compensation of Rs.25,000/- towards pain and suffering, medical treatment, special diet and attendant. In the given facts and circumstances of the case and the material available on record, this Court finds

that the Tribunal was justified in assessing the compensation in favour of claimant/injured and needs no reduction.

10. As regards the compensation against the death of Somya Sahu in claim case no.49/2013, the Tribunal considering the age of the deceased i.e. 11 months, assessed the loss of dependency @ of Rs.1,50,000/-, granted Rs.5,000/- towards funeral expenses, Rs.10,000 to the claimants i.e. parents towards loss of love and affection and thus awarded compensation of Rs.1,65,000/- in favour of the claimants. The said finding also being based on proper appreciation of the evidence needs no interference by this Court.

11. In the result, both the appeals filed by the owner being without any substance are liable to be dismissed and are, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh