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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 625 of 2015**

- 1 Branch Manager, the National Insurance Company Limited, Branch above Central Bank, Near R.M.S. Office, Jagdalpur, District Bastar, C.G. (Insurer of vehicle Tractor and Trolley bearing CG17 G 1002 & CG17 G 0998

---- Appellant**Versus**

- 1 Sukhmati Wd/o Late Sufal aged about 45 years, R/o Village Masora, District Bastar, C.G.
- 2 Ratiram S/o Sawatram, aged about 34 years, R/o Village Masora, District Bastar, C.G. (Driver of vehicle Tractor and Trolley bearing no. CG17 G 1002 & CG17 G 0998)
- 3 Milkuram Poyam S/o Madhura Poyam, R/o Village Masora, District Bastar C.G. (Owner of vehicle Tractor and Trolley bearing no. CG17 G 1002 & CG17 G 0998)

---- Respondents

For Appellant	:	Shri Qamrul Aziz, Advocate.
For Respondent no.1	:	Shri Santosh Bharat, Advocate.
For Respondent nos. 2 & 3	:	Shri Vikas Shrivastava, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Order on Board****11.02.2019**

This appeal is by the Insurance Company against the award dated 12.03.2015 passed by the Additional Motor Accident Claims Tribunal, FTC Bastar Place Jagdalpur, C.G. in Claim Case No.18/13 awarding total compensation of Rs.3,44,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance Company/non-applicant no.3.

02. As per claim petition, on 22.04.2009 deceased Hemwati, aged about 25 years, earning Rs.3,000/- per month as a Labour and Agriculturist, working under the employment of non-applicant no.2 for agriculture work, died in the motor vehicular accident caused due to rash and negligent driving of Tractor bearing no.CG14-G-1002 attached with Trolley bearing no.CG17-G-0998 by non-applicant No.1/respondent no.2. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.3 and insured with non-applicant no.3/appellant herein.

03. On claim petition being filed by the claimant mother of the deceased under Section 166 of the Motor Vehicles Act to the tune of Rs.12,65,000/-, 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 has challenged the award on the sole ground that since at the time of accident deceased was sitting in the tractor and there is no capacity for sitting of passenger in the tractor, it being a specific breach of policy conditions, the insurance company is not liable to pay any compensation.

05. On the other hand, learned counsel for the respondents support the impugned award and submit 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 both the parties.

07. Non-applicant witness no.1 D.D. Verma has admitted that the document of Ex.NA-7 was issued from his Office. Perusal of the said document shows that the basic premium of Rs.550/- was paid towards trolley, for four employees premium of Rs.100/- was paid and premium of Rs.1575/- was paid towards third party. From the record, it is seen that the deceased was travelling in the offending vehicle as a Labour. No evidence to the contrary has been adduced by the Insurance Company. No Officer/Employee from the concerned RTO has been examined to prove breach of policy conditions. In these circumstances, this Court is of the opinion that the Tribunal was fully justified in fastening liability on the Insurance Company of satisfying the award.

08. In the result, the appeal filed by the Insurance Company is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh