

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1033 of 2014**

1. Shiv Prasad Nirmalkar S/o Baishakhu Nirmalkar, aged about 51 Years
R/o Chakraway, Post- Dama Khedha, District Baloda Bazar (C.G.)
(Owner-cum-Driver of Truck)

---- Appellant**Versus**

1. Smt. Bhuri Bai Nishad W/o Moti Ram Nishad, aged about 45 Years,
R/o Tora, Post- Dama Khedha, Thana And Tah. Simga, Distt. Baloda
Bazar (C.G.) **(Claimant)**.
2. The Oriental Insu. Co. Ltd. Through - Branch Manager, The Oriental
Insu. Co. Ltd., R/o R.K. Plaza, Panchpedi Naka, Ring Road No. 1,
Raipur, Tahsil and District Raipur (C.G.). **(Insurer of Truck)**
3. Chandra Prakash Satnami S/o Laxmi Narayan Satnami R/o Near Jai
Stambh Satnami Para Village Tora, Post Dama Khedha, Thana and
Tahsil Simga, Distt. Baloda Bazar (C.G.) **(Driver of Auto Rikshaw)**
4. Rajendra Kumar Kurre S/o Sadhe Lal Kurre R/o House No. 83,
Satnami Para Baba Kothi Village Tora, Post - Dama Khedha, Thana
and Tahsil Simga, Distt. Baloda Bazar (C.G.) **(Owner of Auto
Rikshaw)**
5. I.C.I.C.I. Lombard General Insurance Co. Ltd. Through In-charge
Officer, Lal Ganga Shopping Mall Complex, 3rd Floor, G.E. Road,
Raipur, Tahsil and Distt. Raipur (C.G.) **(Insurer of Auto Rikshaw)**

---- Respondents

For Appellant	:	Shri A.L. Singroul, Advocate.
Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****04/04/2019**

- 1) This appeal is preferred by the appellant/owner-cum-driver of
Truck bearing No. CG04 G 9549 under Section 173 of the Motor
Vehicles Act, 1988 against the award dated 02/08/2014 passed
by Additional Motor Accident Claims Tribunal Bhatapara (C.G.) in
Claim Case No. 28/2012 awarding total compensation of Rs.
1,33,180/- with interest @ 6% per annum from the date of

application till realization, fastening liability 50% on the appellant/non-applicant No. 1 and remaining 50% on non-applicant No. 3/Chandra Prakash Satnami Driver of Auto Rikshaw bearing No. CG04 T 9676 & non-applicant No. 4/Rajendra Kumar Kurre, Owner of Auto Rikshaw jointly and severally. Learned Tribunal while exonerating the Insurance Company of its liability on ground that at the time of accident non-applicant/appellant not having a valid and effective driving license.

- 2) As per averments in the claim petition, claimant injured Bhuri Bai Nishad on 20/02/2012 at around 09:30 PM, aged about 45 years, earning Rs. 4,500/- per month working as Labour. Bhuri Bai Nishad alongwith one Urmila Bai was going to village Tora from village Damakheda sitting in Auto Rikshaw bearing No. CG04 T 9676, at the time of accident Auto Rikshaw was driven non-applicant No.3/Chandra Prakash Satnami with a moderate speed. Non-applicant No. 1 driving the Truck (offending vehicle) bearing No. CG04 G 9549 rashly and negligently dashed Auto Rikshaw and as a result of this accident the claimant suffered grievous injuries and got fractured on right leg and she was admitted in hospital for 15 days at Govt. Hospital Simga and thereafter at Narayan Hospital, Raipur. At the time of accident offending vehicle Truck was owned by Non-applicant No. 1 and insured with non-applicant No. 2. Auto Rikshaw was driven by non-applicant No. 3/Chandra Prakash Satnami, owned by non-applicant No. 4/Rajendra Kumar Kurre and insured with non-applicant No. 5.
- 3) On claim petition being filed by the claimant injured under Section 166 of the Motor Vehicles Act 1998, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 4) Learned counsel for the appellant submits that though he has raised various grounds in this memo of appeal, however, he is not pressing all those grounds and is assailing the award that at

the time of accident appellant/Shiv Prasad Nirmalkar owner-cum-driver of Truck was having a valid and effective license to drive Light Motor Vehicle alongwith motor cycle with gear vide Ex. D-1, therefore, learned Tribunal wrongly exonerated the Insurance Company.

- 5) Heard learned counsel for the appellant and perused the material available on record & impugned award.
- 6) It is not disputed by the appellant/non applicant No. 1 that at the time of accident, Truck bearing No. CG04 G 9549 is 16200 Kg and was driven by driver-cum-owner of vehicle Shiv Prasad Nirmalkar and Truck is insured as per Ex. D-2 Insurance Policy and Ex. D-5 R.C. Book. As per Ex. D-4 permit of vehicle No. CG04 G 9549, its weight is 16200 Kg and it is heavy goods vehicle as mentioned in Ex. D-4.
- 7) Looking to the evidence adduced by appellant himself this fact is proved that the vehicle being driven by the appellant is a heavy goods vehicle and he was having driving license for light motor vehicle as per Ex. D-1. Therefore, learned Tribunal rightly exonerated the Insurance Company as per the evidence adduced by appellant himself. There is no any substance in this appeal filed by appellant/owner of the Truck.
- 8) Resultantly, the appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

-Sd/-
(Gautam Chourdiya)
Judge