

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 99 of 2013**

- Bajaj Allianz General Insurance Company Ltd., Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandri, Raipur, Tahsil And Distt. Raipur C.G.

----Appellant**Versus**

1. Yuvraj Sahu S/o Tikaram Sahu Aged About 17 Years Minor, Thru- Natural Guardian Tikaram Sahu,
2. Tikaram Sahu S/o Jagdish Ram Sahu Aged About 42 Years, workign in Krishi Upaj Mandi,

R/o Lalpur Basti, Thana- Tikrapara, Tah. And Distt. Raipur C.G.
3. Dugeshvar Sahu S/o Late Panchuram Sahu Aged About 21 Years R/o Koma, Thana And Tah. Rajim, Distt. Lodhira- Raipur C.G.
4. Smt. Dukalhin Bai W/o Panchuram Sahu, Occupation Agriculturist, R/o Koma, Thana And Tah. Rajim, Distt. Raipur C.G.

---- Respondents

For Appellant	Shri S.S. Rajput, Advocate.
For Respondent Nos. 1 & 2	Shri Amit Kumar Sahu, Advocate.
For Respondent Nos. 3 & 4	None, though served.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****10/04/2019**

1. This appeal is by the Insurance Company/non-applicant no.3 against the award dated 30.10.2012 passed by the 6th Additional Motor Accident Claims Tribunal, Raipur, C.G. in Claim Case No.71/2011 awarding total compensation of Rs.1,13,809/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance Company/non-applicant no.3 jointly and severally along with non-applicant nos. 1 & 2.
2. As per claim petition, on 22.11.2010, claimant/injured Yuvraj Sahu

along with his companions had gone to village Koma for paddy threshing in the agricultural field. However, non-applicant no.1 while driving the tractor bearing no. CG04-DM-4685 attached with thresher machine in rash and negligent manner dashed the claimant no.1 Yuvraj Sahu, as a result of which Yuvraj Sahu suffered grievous injuries on his left leg and other parts of the body and he was immediately taken to hospital for treatment. At the time of accident, the offending vehicle was owned by non-applicant no.2 and insured with non-applicant no.3.

3. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.7,65,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.
4. Learned counsel for the appellant submits that though he has raised various grounds in the memo of appeal, however, he is not pressing all those grounds and is assailing the award on the sole ground that at the time of accident driver of the offending vehicle was not having a valid and effective licence to drive the vehicle, therefore, Insurance Company is not liable to pay the compensation and the Tribunal has wrongly fastened liability upon Insurance Company/non-applicant no.3.
5. On the other hand, learned counsel for the respondent nos. 1 & 2 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.
6. Heard learned counsel for the parties and perused the record

including impugned award.

7. As per Ex.D-1 i.e. Insurance Policy which has been duly proved by NAW-1 Punit Rathore, at the time of accident, the offending vehicle was duly insured with non-applicant no.3 under Commercial Vehicle Liability only. As per Ex.D-2 one document, driving licence has been produced by the Insurance Company in support of its pleading that non-applicant no.1 was not having a valid and effective licence on the date of accident but neither any authority from the concerned RTO has been examined in this regard nor any reliable and cogent evidence has been adduced by the Insurance Company to prove breach of policy conditions. No enquiry has been conducted by the Insurance Company to substantiate its pleading regarding non holding of valid and effective licence by non-applicant no.1. In this view of the matter, the Tribunal was fully justified in holding non-applicant no.3 liable jointly and severally along with non-applicant nos. 1 & 2 for paying the compensation to the claimants.
8. In the result, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge