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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 826 of 2014

- Branch Manager, Bajaj Allianz General Insurance Company Limited Raipur, Distt. Raipur, Shivmohan Bhawan, Vidhan Sabha Road, Civil And Revenue Distt. Raipur, P.S. Pandri, Raipur C.G.,

---- Appellant

Versus

1. Smt.Kanti Bhuarya, W/o Late Babulal Bhuarya Aged About 40 Years R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.,

2. Shri Shobharam Bhuarya, Aged About 60 Years, R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.,

3. Hemant Kumar Bhuarya, S/o Late Babulal Bhuarya, Aged About 22 Years R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.

4. Ku. Kavita Bhuarya, D/o Late Babulal Bhuarya Aged About 20 Years R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.,

5. Jagdish Bhuarya, S/o Late Babulal Bhuarya Aged About 18 Years R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G. (**Claimants**)

6. Jasvir Singh, S/o Pritam Singh, R/o Behind Mahatma Gandhi School, Qtr. No. Ews- 771, P.S. Amanaka, Distt. Raipur C.G., Permanent Address- At- Chhigiwal Kalyan, Barnaka, Barnaka-108101, Distt. Bastar C.G., **(Driver and owner of Vehicle No.PB-13-Q-7218)** **---- Respondents**

MAC No. 825 of 2014

- Branch Manager, Bajaj Allianz General Insurance Company Limited Raipur, Distt. Raipur, Shivmohan Bhawan, Vidhan Sabha Road, Civil And Revenue Distt. Raipur, P.S. Pandri, Raipur C.G.,

---- Appellant

Versus

1. Smt.Rukhmani, W/o Late Rajesh Deshmukh Aged About 30 Years R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.,

2. Roman Lal, S/o Late Dayaram Deshmukh Aged About 63 Years R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.,

3. Santosh Kumar, S/o Late Rajesh Deshmukh Aged About 14 Years Minor, Thru- Mother Smt. Rukhmani, R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G.,

4. Pritesh Kumar, S/o Late Rajesh Deshmukh Aged About 11 Years Minor, Thru- Mother Smt. Rukhmani, R/o Police Line, Civil And Revenue Distt. Jagdalpur, P.S. Jagdalpur, Distt. Bastar C.G., (**Claimants**)

5. Jasvir Singh, S/o Pritam Singh R/o Behind Mahatma Gandhi School, Qtr. No. Ews- 771, P.S. Amanaka, Distt. Raipur C.G., Permanent Address- At- Chhigiwal Kalyan, Barnaka, Barnaka-108101, Distt. Bastar C.G., **(Driver and owner of Vehicle No. PB-13-Q-7218 ---- Respondents**

(**in MAC No.826/2014**)
For Appellant : Shri Raj Awasthi, Advocate.
For Respondents No. 1 to 5: Ms. Raj Kumari Yadav, Advocate
For Respondent No.6 : None, though served.
(**in MAC No.825/2014**)
For Appellant : Shri Raj Awasthi, Advocate.
For Respondents No. 1 to 4: Shri Raj Kumari Yadav, Advocate.
For Respondent No.5 : None, though served.

Hon'ble Shri Justice Sanjay S. Agrawal

Order / Award on Board

12.02.2020

1. Since both these Miscellaneous Appeals, preferred by Non-Applicant No.2 – Bajaj Allianz General Insurance Company Limited, arise out of the common award dated 13.05.2014 passed by 1st Additional Motor Accident Claims Tribunal, Bastar place Jagdalpur, awarding total amount of compensation to the tune of Rs.28,71,456/- (in Claim Case No.04/2012) and Rs.19,77,168/- (in Claim Case No.03/2012) along with @ 6% per annum from the date of filing of Claim Petitions till its realisation, they are being disposed of by this common Order/Award. The parties to these Appeals shall be referred hereinafter as per their description in the Court below.

2. Briefly stated the facts of the case are that on 08.12.2011 at 15:30 hours, deceased Rajesh Deshmukh while driving his Bullet motorcycle was returning from Nagarnar to Jagdalpur along with his deceased friend Babulal Bhuarya, at the relevant time he was dashed vehemently by the offending vehicle 'Trailor' bearing its registration No. PB-13-Q-7218, which was being driven rashly and negligently by its owner, namely, Jasvir Singh, Non-Applicant No.1. The vehicle in question was insured with Non-Applicant No.2 - Bajaj Allianz General Insurance Company Limited. Due to rash and negligent driving of the said vehicle by its driver, the alleged accident occurred and owing to which, both Rajesh Deshmukh and his friend Babulal Bhuarya expired on the spot.

3. On account of the aforesaid accident, a claim enumerated under Section 166 of the Act of 1988 has been made by the legal representatives of deceased, Rajesh Deshmukh, which was registered as Claim Case No. 3/2012, claiming total amount of compensation to the tune of Rs.48,01,000/- under various heads by submitting inter alia that the deceased was a Constable by profession and used to earn Rs.14,683/- per month, whereas, in another claim petition being Claim Case No.04/2012 made by the legal representatives of deceased Babulal Bhuarya, a total sum of Rs.49,45,000/- has been claimed by alleging therein that the deceased was a Constable by profession and used to earn Rs.24,128/- per month and thus the said amount of compensation has been claimed under various heads.

4. Non-Applicant No.1, Jasvir Singh, owner-cum-driver of the offending vehicle was proceeded *ex parte*, while Non-Applicant No.2 - insurer has contested the aforesaid claims mainly on the ground that the driver of the alleged offending vehicle was not holding the effective and valid driving

license, and therefore, no liability as such could be fastened upon the insurance company.

5. After considering the evidence led by the parties, it has been held by the Claims Tribunal that the alleged accident occurred on 08.12.2011 due to rash and negligent driving of the offending vehicle by its driver, resulting into the sad demise of Rajesh Deshmukh and his friend Babulal Bhuarya. It held further that the driver of the alleged offending vehicle was holding an effective and valid driving license and, thus, by fastening liability upon the insurance company, awarded total amount of compensation to the tune of Rs.28,71,456/- (in Claim Case No.04/2012) and Rs.19,77,168/- (in Claim Case No.03/2012) along with @ 6% per annum from the date of filing of Claim Petitions till its realisation,

6. Being aggrieved, these appeals have been preferred by Non-Applicant No.2/insurer. Shri Raj Awasthi, learned counsel appearing for the appellant in both the cases, submits that while passing the award impugned, the Claims Tribunal has committed an illegality in holding that the driver of the offending vehicle was holding an effective and valid driving license. While inviting attention of this Court with regard to documentary evidence, like Ex.D.1 and Ex.D.2, he submits that at the time of the accident, the driver of the alleged offending vehicle was authorised to drive the alleged transport vehicle only upto 07.05.2009 and not thereafter. It is contended further that the driving license of said Jasvir Singh was not validly renewed from 08.05.2009 to 07.05.2012 as depicted from the particulars of his driving license marked as Ex.D.3. However, without considering the said fact in its proper manner and that by disbelieving the evidence led in this regard, the Tribunal has committed an illegality in fastening the liability upon the insurance company.

7. Countering the aforesaid contention, Ms. Raj Kumari Yadav, learned counsel appearing for the Claimants in both these appeals, while inviting attention to the documentary evidence, like Ex.D.3, the particulars of the driving license of the alleged driver, submits that the driving license of said Jasvir Singh was duly renewed with effect from 08.05.2009 upto 07.05.2012, and therefore, he was authorised to drive the alleged transport vehicle at the time of accident. The Claims Tribunal has, therefore, rightly arrived at a conclusion that he was possessing an effective and valid driving license, while fastening the liability upon the insurance company.

8. I have heard learned counsel for the parties and perused the entire record carefully.

9. The main contention raised herein by the appellant/insurance company is that since the vehicle in question was being driven by its driver-cum-owner Jasvir Singh without any effective and valid driving license, therefore, no liability as such could be fastened upon the insurance company. In order to establish the said fact, the burden was heavily upon the insurance company and for proving the said fact, examined one Heeralal Nayak (D.W.1), the Regional Transport Officer of Raipur. However, a bare perusal of his statement, particularly para – 14 of it, vis-a-vis, the said documentary evidence (Ex.D.3) showing the particulars of the driving license of Jasvir Singh, it is evident that it was renewed on 15.05.2009 authorising him to drive the transport vehicle with effect from 08.05.2009 upto 07.05.2012. He was, thus, holding the effective and valid driving license to drive the alleged transport vehicle at the relevant point of time. The Tribunal has, therefore, rightly arrived at a conclusion that he was authorised to drive the alleged transport vehicle at

the relevant time and the finding so recorded based upon due and proper appreciation of the evidence led by the parties deserves to be and is hereby affirmed.

10. In the light of above discussion, I do not find any substance in both these appeals. The appeals, being devoid of merits, are liable to be and are hereby dismissed. No order as to costs.

Sd/-

(**Sanjay S. Agrawal)**
Judge

Anjani