NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No.766 of 2014

HDFC ERGO General Insurance Company Limited, Through its Assistant Legal Manager, HDFC ERGO General Insurance Company Limited, 205-206 – 2nd Floor, DM Tower, 7, Race Course Road, Indore (M.P.)

(Insurer)
---- Appellant

Versus

1. Sundari Bai, W/o Gholtu Ram, aged about 54 years, R/o Village Sunderganj, P.S. Jainagar, Tahsil Surajpur, District Surajpur (C.G.)
(Claimant)

2. Vimal Bachhad, S/o Tarachand Bachhad, aged about 25 years, Occupation Driver, R/o Village Silfili (Madanpur), P.S. Jainagar, Tahsil Surajpur, District Surajpur (C.G.)
(Driver)

3. Smt. Geeta Haldar, W/o P.C. Haldar, aged about 40 years, R/o Village Kamalpur, Silfili, P.S. Jainagar, Tahsil Surajpur, District Surajpur (C.G.) Present Address : Village Ganeshpur, P.S. Jainagar, Tahsil Surajpur, District Surajpur (C.G.)
(Owner)

---- Respondents

For Appellant: Mr. N.K. Thakur and Mr. Rohitashva Singh, Advocates.
For Respondent No.1: - Mr. A.K. Prasad, Advocate.
For Respondents No.2 and 3: - Mr. Vivek Bhakta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/12/2021

1. The appellant Insurance Company has questioned the impugned award dated 16-5-2014 passed by the 2nd Additional Motor Accident Claims Tribunal, Surajpur in Motor Accident Claim Case No.106/2011 by which the liability of ₹ 11,170/- with 9% interest per annum from the date of making application has been fastened upon it.

2. Mr. N.K. Thakur, learned counsel appearing for the appellant

Insurance Company, would submit that the learned Claims Tribunal has committed legal error in fastening liability upon the Insurance Company, as the driver / respondent No.2 herein did not have valid and effective driving license to drive the offending vehicle and the owner / respondent No.3 herein did not have effective permit to ply the vehicle in question, therefore, the impugned award is liable to be set aside.

3. On the other hand, Mr. A.K. Prasad, learned counsel appearing for the claimant / respondent No.1 herein and Mr. Vivek Bhakta, learned counsel appearing for respondents No.2 & 3 herein, would support the impugned award.

4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.

5. Though the Insurance Company while filing written statement took the plea that the vehicle did not have valid permit and fitness and the driver did not have valid and effective driving license to drive the vehicle and more persons than the sitting capacity i.e. 1 + 5, were being carried-on in the offending vehicle, but it appears from the record that Ramraj Vishwakarma (NAW-3), Manager of the appellant Insurance Company, has been examined in which he has made a self-serving statement that without permit, the passengers are being carried-on in the vehicle and it is in violation of the insurance policy which the Claims Tribunal did not accept and recorded a finding that the driver did have valid and effective driving license to drive the offending vehicle and there is no violation of the terms of the insurance policy.

6. The finding recorded by the Claims Tribunal holding that the driver did

have valid and effective driving license to drive the offending vehicle and there is no violation of the terms of the insurance policy is a finding based on the evidence available on record, it is neither perverse nor contrary to the record. The appellant Insurance Company has failed to prove its plea as raised in the written statement. I do not find any merit in this appeal, it deserves to be and is accordingly dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma