NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 887 of 2018

- Reliance General Insurance Company Limited Through Its Legal Officer, Reliance General Insurance Company Limited, 301-302, Corporate House, 169 Rnt Marg, Opposite Jhabua Tower, Indore (Madhya Pradesh)

----Appellant

Versus

1. Amir Singh S/o Manbodh, Aged About 55 Years R/o Navapara Chittajhor Pondi, P.S. Pondi, Tahsil Baikunthpur, District Koriya Chhattisgarh.
2. Neeta Singh, S/o Amir Singh, Aged About 21 Years R/o Navapara Chittajhor Pondi, P.S. Pondi, Tahsil Baikunthpur, District Koriya Chhattisgarh.
3. Ajay Kumar Pandey, S/o B.N. Pandey, R/o Gramas Kachhar, Kaghgodi, Tahsil Sonhat, District Koriya Chhattisgarh.
4. Himmat Prasad Singh S/o Gokul Prasad Singh, Aged About 47 Years R/o Village Siriya Khoh, Post Nagpur (Harra), P.S. Pondi, Tahsil Manendragarh, District Koriya Chhattisgarh. **----- Respondents**

For Appellant: : Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice Sanjay S. Agrawal

Order on board

09.09.2021

1. The insurer has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the “Act of 1988”) questioning the legality and propriety of the award dated 22.02.2018 passed by the First Additional Motor Accident Claims Tribunal, Manendragarh, District Koriya (C.G.) in Claim Case No.17 of 2014, whereby the learned Tribunal while allowing the claim in part has awarded total amount of compensation to the tune of Rs. 3,29,000/- with 7% interest per annum from the date of filing of the claim petition till the date of actual payment.

2. The case, in brief, is that the claimants/Respondents No.1 and 2, who are

the father and daughter of the deceased Sampatiya Bai, have filed the claim petition under Section 166 of the Act of 1988 by submitting, *inter alia,* that on 04.10.2010 at about 1:30 P.M. deceased driver Mahesh Singh while driving the offending vehicle bearing registration no.C.G. 10 B.C. 3007, rashly and negligently turned turtle, as a result of which, both Mahesh Singh and Sampatia Bai died.

3. The present appeal is filed by the Insurance Company on the ground that the cover note of the Insurance Company is a forged document as a bunch of policy was missing from the office of the company, therefore, the Insurance Company is not liable to pay the compensation on the basis of the forged cover note. The only issue for consideration of this Court is, therefore, whether the same is a fabricated one or not.

4. According to the statement of Mohit Dubey (NAW/1), who is a witness of the Insurance Company, the policy cover note, marked as Ex.NA-1, is issued by the Insurance Company. Though he is stating that a bunch of cover notes have been missed from the office, but he is unable to state whether the alleged cover note filed before the Tribunal is having the same number of policy which is missed. Again, he has not stated that the policy number issued in the present case is issued regarding some other vehicle.

5. From the entire evidence of this witness, it is clear that the cover note was issued by the Insurance Company and when the Insurance Company has issued the same, the company cannot be absolved from its liability and, the learned Tribunal has not committed any illegality in fastening the liability upon the Appellant-Insurance Company. It is to be noted here further at this juncture that one appeal, being MAC No. 894 of 2018 preferred against the award dated 21.02.2018 passed in Claim Case No.16 of 2014 which was

instituted on account of the death of driver Mahesh Singh arising out of the alleged accident occurred on 04.10.2010, has already been dismissed by this Court vide order dated 12.07.2018.

6. Accordingly, the appeal being devoid of merit is liable to be and is hereby dismissed at motion stage itself. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
JUDGE

Vivek

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

MAC No. 887 of 2018

Reliance General Insurance Company Limited Versus Amir Singh

09.09.2021	Shri Sourabh Sharma, counsel for the Appellant. Also heard on I.A. No.02/2018, an application for exemption from filing certified copy of order passed under Section 170 of Motor Vehicle Act, 1988. On due consideration and in view of the principles laid down in the matter of ***United India Insurance Co. Ltd. Vs. Shila Dutta*** reported in 2011 ACJ 2729 (SC) followed in 2014 ACT 2396 in the matter of ***Bajaj Allianz General Insurance Co. Ltd. Vs. Kamla Sen and others***, I am inclined to allow the same and the appellant is exempted from filing the certified copy of the order passed under Section 170 of the Motor Vehicles Act, 1988. I.A. No.02/2018 stands disposed of. Order passed separately, signed and dated. Sd/- (**Sanjay S. Agrawal**) **Judge**

Vivek