

HIGH COURT OF CHHATTISGARH, BILASPURMiscellaneous Appeal (C) No.1287 of 2017

Magma General Insurance Company Limited (Actual Name – Magma HDI General Ins. Co. Ltd.), Through Branch Manager, Branch Office, Chawla Complex, Devendra Nagar Turn, Raipur, Tahsil and Distt. Raipur (C.G.), At Present 5th Floor, DB Complex, G.E. Road, Raipur (C.G.)
(Insurer of Motor Cycle No.CG-12-A.L.-7545)

---- Appellant

Versus

1. Keshav Ram Sahu, age 52 years, S/o Awadhram Sahu, R/o Village Kapsada, Post Kumhari, Distt. Durg (C.G.)
(Claimant)
2. Abhisar Kumar Pandey, age 28 years, S/o Parasnath Pandey, Profession Private Service, R/o Bajaj Electricals, Near Anupam Garden, G.E. Road, Raipur, Distt. Raipur (C.G.)
(Owner and Driver of Motor Cycle No.CG-12-A.L.-7545)

---- Respondents

For Appellant: Mr. Rohitashva Singh, Advocate.
For Respondent No.1: -
Mr. Shivendu Pandya, Advocate.
For Respondent No.2: -
None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/12/2021

1. Heard on I.A.No.1/2017, application for condonation of delay in filing appeal.
2. Sufficient cause has been shown for delay in filing the appeal.
Accordingly, I.A.No.1/2017 is allowed and delay in filing the appeal is condoned.
3. Also heard on admission.
4. Mr. Rohitashva Singh, learned counsel appearing for the appellant Insurance Company, would submit that permanent disability caused to

the claimant / respondent No.1 herein has occurred on account of his own negligence as he has suffered injury on account of his own negligence which has been proved by Dushendra Kumar Verma (NAW-1) – Assistant Law Officer and Kanta Gond (NAW-2) – Inspector, therefore, liability could not have been fastened upon the Insurance Company.

5. The Claims Tribunal has clearly recorded a finding that the claimant suffered permanent disability on account of rash and negligent act of driving the vehicle by respondent No.2, owned by Abhisar Kumar Pandey and insured by the appellant Insurance Company, therefore, the appellant Insurance Company is responsible for making payment of compensation. The said finding is a finding of fact based on the evidence available on record, it is neither perverse nor contrary to the record. I do not find any merit in the appeal, it is liable to be dismissed and is accordingly dismissed *in limine*. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge