

(2018) 01 CHH CK 0082

In the Chhattisgarh High Court

Case No : Miscellaneous Appeal (C) No. 1082 Of 2011

Bajaj Alliance General Insurance Company Limited

APPELLANT

Vs

Ganga Devi Karsh And Ors

RESPONDENT

Date of Decision : 08-01-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173
Code Of Civil Procedure, 1908 — Order 41 Rule 22

Citation : (2018) 01 CHH CK 0082

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : N. K. Thakur, R. S. Patel, Govind Dewangan

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 19.07.2011 passed by the

Chief Motor Accident Claims Tribunal, Janjgir Champa (CG) in Motor Accident Claim Case No. 62 of 2010. Vide the impugned award, the Tribunal,

in a death case under Section 166 of MV Act, has awarded a compensation of Rs.16,14,830/- with interest @ 6% per annum from the date of

application.

2. The claimants in the instant case have also filed a cross objection under Order 41 Rule 22 of CPC seeking enhancement of compensation.

3. The challenge by the Insurance Company is on the ground that the driver in the instant case did not have a valid licence on the date of accident and

the vehicle was being driven in breach of the policy conditions, therefore, the Insurance Company should be exonerated of its liability and if at all if

any liability is to be fastened, it should have been upon the owner of the said vehicle. Counsel for the Insurance Company referred to the evidence led

by the Insurance Company to substantiate their contention

4. However, on perusal of the record it would reveal that the Insurance Company had called upon a witness from RTO, Bilaspur namely Umesh

Kumar Tripathi NAW-2 who in his deposition in paragraph-2 in very categorical terms has stated that the driver involved in the accident Liyakat

Hussain was having a licence to drive light motor vehicles as well as heavy goods vehicles which was valid from 21.05.2009 to 20.05.2012. This

witness has also specifically stated that on the date of accident the driver had a valid licence.

5. In the light of the deposition of the witness from RTO, Bilaspur, this Court is of the opinion that the stand which the Insurance Company is taking in

the present appeal is not worth accepting as there is no proof to substantiate their contention apart from the evidence of this witness. In the given

facts and circumstances of the case, this Court is of the opinion that no scope of interference with the impugned award has been made out by the

appellant. The appeal of the Insurance Company thus fails and is accordingly dismissed.

6. So far as the cross objection of the claimants is concerned, again this Court, on perusal of the amount of compensation awarded, finds that the

Tribunal has taken into account all necessary factors while computing the compensation and the claimants also have not made out any strong case for

interfering with the quantum of compensation awarded. Accordingly, the cross objection of the claimants also fails and is accordingly dismissed.