(2018) 02 CHH CK 0181

In the Chhattisgarh High Court

Case No : MISC. APPEAL (C) NO. 423 Of 2012

Reliance General Insurance Company Limited APPELLANT

Vs

Mamta Sharma And Ors RESPONDENT

Date of Decision : 08-02-2018

Acts Referred:
Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2018) 02 CHH CK 0181

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Rohitasva Singh

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the appellant-insurance company.

2. Challenge in the present appeal is to the award dated 16.12.2011 passed by the First Additional Motor Accident Claims Tribunal, Durg, in Motor Accident Claim Case Nos. 14/2009 and 33/2009.

3. Since it is a joint appeal which is not permissible as the award passed was in separate claim applications filed before the Tribunal, the appellant restricts the present appeal so far as the award passed in Motor Accident Claims Tribunal No. 33/2009.

4. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.4,28,000/- in favour of the claimants with interest thereon at the rate of 6% per annum.

5. Contention of the learned counsel for the appellant-insurance company is that the ground of challenge in the present appeal is the liability part. According to him, the offending vehicle involved in the instant case is a Heavy Goods Vehicle

which is a Tipper, bearing registration no. CG13-A-474, owned by respondent no.6 and driven by respondent no.5. He submits that though the offending vehicle is a Heavy Goods Vehicle, the driver of the vehicle on the date of accident only had a licence to drive a Light Motor Vehicle and as such there is a clear breach of policy condition and therefore the liability if any should had been fastened upon the owner and driver of the offending vehicle and not upon the insurance company.

6. A perusal of record would show that the appellant-insurance company in the instant case has not led any evidence to substantiate the said fact. Moreover, the licence of the driver was neither brought on record by the insurance company nor has it been verified or inquired upon by the concerned RTO. In the absence of any such material on record, the finding of the Tribunal cannot be found fault with. The Tribunal has rightly fastened the liability upon the insurance company in the light of there being a valid policy covering the risk of the vehicle involved.

7. The appeal of the insurance company thus being devoid of merits, the same deserves to be and is accordingly dismissed.