



(3)

C.F. 15/5

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

(C.G.)

MISCELLANEOUS APPEAL (C) NO. 748 OF 2009

APPELLANTS :

Non Applicants

1. Ramlal son of Girdharilal Sahu, aged about 72 years, Occupation Vehicle Swaraj Tractor No. C.G. 05/0812 and Trolley No. C.G. 05/0813 (Registered Owner)
2. Kumbhkaran son of Dhansingh Sahu, aged about 35 years, Occupation Vehicle Swaraj Tractor No. C.G. 05/0812 and Trolley No. C.G. 05/0813 (Driver)

Both are Resident of Village Kharenga, Post Kharainga, Police Station Arjuni, Tahsil and District Dhamtari (C.G.)

VERSUS

RESPONDENTS :

NON-APPLICANTS

Non-Applicants

1. Smt. Uma Dhruv widow of Shankar Lal Dhruv, aged about 20 years, R/o Village and Post Kharenga, Police Station Arjuni, Tahsil and District Dhamtari (C.G.)
2. Smt. Shiv Bai widow of Asharam Dhruv, aged about 55 years, R/o Village Post Kharenga, Police Station Arjuni, Tahsil and District Dhamtari (C.G.)
3. The New India Insurance Company Limited,
Through: the Branch Manager,
Second Floor, R.D.A. Building
Bajrang Market, G.E. Road, Raipur
(C.G.)

(4)

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Claimed before Tribunal : Rs. 12,00,000/- ✓
Amount awarded by the learned Tribunal : Rs. 2,26,200/-
Claimed in this Memo of Appeal : Rs. 2,15,200/- ✓

MISCELLANEOUS APPEAL UNDER SECTION 173 OF THE MOTOR
VEHICLE ACT, 1988



HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. (C) No. 748 of 2009

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APPELLANTS : Ramlal & another

VERSUS

RESPONDENTS : Smt. Uma Dhruv & others

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLES ACT

SB: Hon'ble Shri Justice N. K. Agarwal

Present : Shri PP Sahu, Advocate for the appellants.
Shri SN Chandra, Advocate for respondent No. 1 & 2.
Shri AK Athaley, Advocate for respondent No. 3.

ORAL ORDER
(Passed on 31.03.2011)

1. With the consent of the parties, the matter is heard finally.
2. This is owner's appeal against the award dated 20.02.2009, passed by the Additional Motor Accidents Claims Tribunal, Dhamtari (for short 'the Tribunal') in claim case No. 38/08, whereby and whereunder an amount of Rs. 2, 15,200/- has been awarded as compensation in favour of the claimants and as against the appellants exonerating the insurance company from its liability to pay compensation.
3. Brief facts of the case according to the appellants are that : on 24.05.2008, Shankar Lal Dhruv (since deceased) was traveling in the Tractor bearing registration No. CG-05-0812 and its Trolley bearing registration No. CG-05-0813, the said Tractor



turned turtle, as a result of which he succumbed to the injuries sustained in the said accident. 35

4. As against Rs. 12,00,000/- claimed by unfortunate widow and mother of deceased, the Tribunal, awarded total sum of Rs. 2,15,200/- as compensation in favour of the claimants along with interest @ 8 percent per annum from the date of application till its payment.
5. Shri PP Sahu, learned counsel appearing for the appellants would submit : the tribunal has erred in exonerating the insurance company from its liability to pay compensation despite the fact that vehicle was insured.
6. On the other hand, Shri AK Athaley, learned counsel appearing for the respondent No. 3/insurance company supported the award and would submit that in the facts and circumstances of the case, the Tribunal has rightly exonerated the insurance company from its liability to pay compensation to the claimants which deserves to be upheld.
7. I have heard the counsel appearing for the parties, perused the order impugned and records of tribunal.
8. The Tribunal, on appreciation of evidence led, material placed and submissions made, held : accident occurred due to rash and negligent driving of driver of the offending Tractor, awarded a sum of Rs. 2,15,200/- as compensation against the appellants i.e. driver & owner of Tractor in question, exonerated the insurance



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company on the ground deceased was sitting in the Tractor/Trolley as gratuitous passenger.

9. The fact that deceased was working as a Labour in the Mandi, Dhamtari, and was sitting in the Tractor/Trolley in question as a gratuitous passenger at the time of accident is not in dispute. It is well settled, the insurance company is not statutory liable to cover the risk of a person sitting in the Tractor/Trolley as a gratuitous passenger. It is not a case of the appellants that by taking extra premium the insurance company had undertaken such risk.
10. In view of above, the Tribunal has not committed any illegality in exonerating the insurance company from its liability to pay compensation to the claimants on the above ground.
11. No other points have been raised by the appellants counsel.
12. For the reasons mentioned hereinabove, the appeal being devoid of substance is liable to be and is hereby dismissed. No order as to costs.

Sd/-
N.K. Agrawal
Judge