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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.(C) NO. 206 / 2015

(S.B.)

APPELLANT  
(INSURER)

The Oriental Insurance  
Company Ltd., Main Road, Sadar  
Bazar, Jagdalpur, District - Bastar-  
(C.G.)

*2028/15*  
*Pr. No. 15/2015*  
*6/2/15*  
VERSUS  
RESPONDENTS  
(CLAIMANTS 1 to 4)

1. Ku. Asha D/o Late Somaru,  
Aged 17 years, R/o Hitech Colony  
Bachheli, P.S. - Bachheli, District  
South Bastar - Dantewada-(C.G.)  
*Through Natural guardian Reg. No. 2*
2. Ramesh S/o Late Somaru, Aged 33  
years, Caste - Muriya
3. Raju S/o Late Somaru, Aged 27  
years, Caste - Muriya
4. Ku. Laxmi D/o Late Somaru, Aged  
28 years, Caste - Muriya, All R/o  
Bachheli, District - South Bastar-  
Dantewada-(C.G.)
5. Ramkumar S/o Indro Vivahar Aged  
21 years, R/o Kirandul Near  
Anganbadi 4 No. P.S. - Kirandul,  
District - South Bastar-Dantewada-  
(C.G.)
6. K.A.Papachand S/o K.V.Anthony,  
R/o 4 No. Ring road Kirandul, P.S. -  
Kirandul, District - South Bastar  
Dantewada-(C.G.)

DRIVER

OWNER

MISC. APPEAL U/S 173 OF THE MOTOR VEHICLES ACT 1988

**HIGH COURT OF CHHATTISGARH AT BILASPUR****(Single Bench: Hon'ble Shri Justice P. Sam Koshy)****M. A. (C) No. 206 of 2015****Appellant  
claimant**The Oriental Insurance  
Company Ltd.**VERSUS****Respondents**

Ku. Asha and others

**Present:** Shri Raj Awasthi, Counsel for the appellant.**ORAL ORDER  
(27. 02. 2015)**

By way of the instant appeal, the appellant has challenged the award dated 10.11.2014 passed by the Additional Motor Accident Claims Tribunal, South Bastar, Dantewada, in Miscellaneous Accident Claim Case no. 233/2014.

2. The facts in nutshell are that deceased Somaru Ram met with an accident on 23.05.2005, when he was returning from the market, the offending vehicle i.e. Max Pickup, dashed the deceased resulting in his death. Respondent No. 1 to 4 the claimants before the Tribunal are the unmarried children of the deceased and had filed a claim case before the claims Tribunal seeking for compensation on account of the death of the deceased in the road accident.

3. That after the pleading were complete and the evidence was recorded, the Tribunal vide the impugned award dated

10.11.2014 has held that the claimants are entitled for compensation of Rs. 5,52,800/- with simple interest @ 9% per annum from the date of filing of claim case No. 233/14. The Tribunal has also held that in the event, if the compensation amount is not deposited by the Insurance Company within a period of 2 months from the date of award the same would carry the penal interest @ 12% per annum.

4. It is this award dated 10.11.2014 which is put to challenge by the appellant by way of the instant appeal.

5. Counsel for the appellant submits that he has challenged the award on two grounds. Firstly, the amount awarded by the Tribunal is on the higher side and secondly, the liability upon the appellant also has been wrongly imposed and therefore, the award deserves to be set aside.

6. So far as the first contention is concerned, counsel for the appellant submits that the tribunal below has not properly appreciated the fact that respondents No. 2 to 4 being major children of the deceased and therefore, they would be entitled for compensation only for loss of estate and thereby the compensation awarded would have got substantially reduced.

7. On due consideration of the evidence which has come on record, particularly the fact that the claimant's No. 1 and 4 are unmarried daughters of the deceased and also keeping in view the fact that the deceased was working in one of the Public

Sector under takings of the Central Government i.e. NMDC Ltd., the calculation made by the tribunal in awarding compensation cannot be said to be on the higher side, particularly keeping in view the fact that the deceased had two unmarried daughters as well as the other two children also being unmarried sons. Therefore, the contention of the counsel for the appellant so far as the entitlement of compensation to the the claimant's is concerned is not sustainable and is accordingly rejected.

8. As far as the second contention of the counsel for the appellant is concerned in respect of the liability of the Insurance Company, it is submitted that the driver /respondent No. 5 of the offending vehicle was not having valid licence at the time of accident for driving the goods vehicle. According to the counsel for the appellant, driver was only having a valid licence to drive only "light motor vehicle" whereas the offending vehicle involved at the time of accident was a goods carrying vehicle and for which there was no specific endorsement by the Transport Authority permitting the respondent No. 5 to drive such category of vehicle.

9. However, the findings in this regard by the driver cannot be said to be perverse for the reason that the tribunal, while deciding the said issue of liability, categorically had taken into consideration the judgment of the Hon'ble Supreme Court reported in **2013 (7) SCC 62** the matter of **S. Iyyapan v.**



**United India Insurance Company Limited and another** wherein it has been held that since the vehicle involved in the accident was Max Pickup which falls under the category of light motor vehicle and the driver / Respondent No. 5 was having a valid licence to drive the "light motor vehicle" it cannot be said that the driver was not having a proper licence at the time of accident. As the said finding of the Tribunal is based on the decision which has been given by the Hon'ble Supreme in the case of S. Iyyapan v. United India Insurance Company Limited and another (Supra) and for this reason the second ground raised by the counsel for the appellant is not sustainable and neither can the finding of the Tribunal be held as perverse nor suffers from any infirmity.

**10.** In view of the above, this Court is of the view, that the instant appeal being devoid of merits, the same deserves to be and is accordingly dismissed. However, at this juncture it is held that in the event if the appellant deposits the compensation amount awarded by the Tribunal within a further period of 45 days from today, the penal interest awarded by the Tribunal shall not be given effect to.

**11.** Needless to mention, that in case if there is any default, the penal interest awarded by the tribunal would remain intact.

Sd/-  
**P. Sam Koshy**  
Judge