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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2118 of 2019

1. H.D.F.C. Ergo General Insurance Company Ltd. Through Officer In Charge, H.D.F.C. Ergo General Insurance Company Ltd., Chawla Complex, Devendra Nagar, Raipur Chhattisgarh(Insurer Of Vehicle), District : Raipur, Chhattisgarh

... Appellant

versus

1. Smt. Afsana W/o Late Amjad Khan Aged About 35 Years R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh..... (Claimants), District : Mahasamund, Chhattisgarh
2. Kumari Alfiya D/o Late Amjad Khan Aged About 8 Years Respondent No. 02 Is Presenting Through Mother Resp. No. 1 Smt. Afsana, R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh..... (Claimants), District : Mahasamund, Chhattisgarh
3. Kumari Aliya D/o Late Amjad Khan Aged About 10 Years Respondent No. 03 Is Presenting Through Mother Resp. No. 1 Smt. Afsana, R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh..... (Claimants), District : Mahasamund, Chhattisgarh
4. Habib Khan S/o Salim Khan Aged About 60 Years R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh..... (Claimants), District : Mahasamund, Chhattisgarh
5. Smt. Haimda Begum W/o Habib Khan Aged About 55 Years R/o Gokul Nagar, Santoshi Nagar Raipur District Raipur Chhattisgarh Other Address Imlibhatha, Mahasamund District Mahasamund Chhattisgarh..... (Claimants), District : Mahasamund, Chhattisgarh
6. Smt. Asha Ojha W/o Suresh Kumar Ojha R/o Mahavir Chowk, Taragiv (Taraganj) Lashkar, Gwalior M. P.(Owner Of Vehicle), District : Gwalior, Madhya Pradesh

... Respondent(s)

For Appellant	:	Mr. Harshmander Rastogi, Advocate holding the brief of Mr. N.K. Thakur, Advocate
For Respondents No. 1 to 5	:	Mr. Devendra Kashyap, Advocate holding the brief of Mr. Pushpendra Kumar Patel, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****23.02.2026**

1. The Insurance Company has challenged the judgment and award passed by the learned Principal Motor Accident Claims Tribunal, Raipur passed in Claim Case No. 565/2017, whereby, the learned Tribunal has granted compensation to the tune of Rs. 5,00,000/- with interest at the rate of 9% per annum on account of death of Amjad Khan.
2. The facts in brief are that on 20.11.2012 at around 9:30 am driver of the Truck bearing registration No. MP 07 HB 0495 met with an accident and succumbed to death. The claimants who are widow, two minor children and parents filed claim case under Section 163(A) of Motor Vehicle Act claiming therein compensation to the tune of Rs. 26,00,000/-. The Insurance Company filed reply and took a plea that the deceased himself was negligent. It was also pleaded that the police after investigation submitted closure report. The learned Tribunal framed issues, parties led evidence, and thereafter, award was passed.
3. Mr. Harshmander Rastogi would submit that the claimants failed to place on record driving licence of deceased though registered notice was issued to the claimants. He would submit that notices were sent by the Insurance Company to claimants to place on record driving licence of deceased, but they failed; therefore, the learned Tribunal recorded specific finding that the driver of the offending vehicle did not have valid and effective driving licence. Mr. Rastogi would submit that as the claimants failed to prove the fact that deceased had valid and effective driving licence, thus, the learned Tribunal committed error of law while fastening liability with the Insurance Company. He has placed reliance on the judgment passed in the matter of

The Oriental Insurance Company Limited, Raipur (C.G.) vs. Shrikant Singh and others (MAC No. 1040/2008), wherein, it is held that in absence of particular of driving licence, it would not be possible for the appellant/insurance company to produce evidence of the concerned RTO, para 6 is reproduced herein-below :-

“6. Learned counsel for the appellant/insurance company has raised a contention that the driver and owner of the offending vehicle had failed to produce any particulars of the driving licence. Thus, in the absence of the same, it was not possible for the insurance company to produce any evidence regarding the fact whether the driver was having a valid and effective driving licence on the date of accident or not. However, the Tribunal has drawn an adverse inference against the appellant/insurance company by holding that if the driver or the owner had not produced the driving licence, it cannot be said that the driver was not having a valid and effective driving licence. In our opinion, the adverse inference drawn on the basis of this finding against the appellant/insurance company by the Tribunal is not sustainable in the eye of law and deserves to be set aside. When the particulars of the driving licence would not be known to the insurance company and when it would not be known as to from which place the driving licence was issued, it would not be possible for the appellant/insurance company to produce evidence of the concerned RTO. It is not possible to produce the evidence of all the RTOs or verify from all the RTOs as to whether the driver of the offending vehicle was having a valid and effective driving licence or not.”

4. On the other hand, learned counsel for respondents would oppose. He would submit that the learned Tribunal has granted just and proper compensation and appeal deserves to be dismissed.
5. I have heard learned counsel for the parties and perused the record.
6. In the present case, the learned Tribunal declined to exonerate the liability

of the Insurance Company. Perusal of reply filed by the Insurance Company would show that specific plea was taken with regard to driving licence. The deceased met with an accident on 20.11.2012, whereas, FIR was registered on 02.12.2012 vide Ex. P/2. During course of investigation, police seized registration certificate, fitness certificate, permit and Insurance papers of offending Truck.

7. The claimants examined Smt. Afsana Parveen (AW/1) and in para 7 she admitted the fact that she could not place on record driving licence or its copy.
8. The Insurance Company examined Praveen Sizariya (NAW/1), who deposed that there was breach of conditions of Insurance policy as the driver of the offending vehicle did not have valid driving licence and registered letters were sent to Smt. Afsana wife of deceased and owner of the vehicle Smt. Aasha Ojha & Anup Goyal. In cross-examination, this witness admitted that acknowledgment receipt of registered letters were not placed on record, and letter Ex. D/5 was addressed to one Anup Goyal.
9. The Insurance Company had knowledge of the fact that the deceased did not have valid and effective driving licence on the date of accident, but no application was moved before the learned Tribunal seeking a direction to the claimants to produce said document. The Insurance Company has sent registered letters to widow, owner of vehicle and one Anup Goyal, but failed to place on record acknowledgment receipts, therefore, it could not be presumed that registered letters were duly served upon above-stated persons.
10. In the matter of **Shrikant Singh (supra)** it is held that when particulars of the driving licence were not provided by the claimants it would not be possible to verify or enquire about genuineness of the driving licence of the

driver. In the matter of ***Shrikant Singh (supra)***, an adverse inference was drawn against the Insurance Company by the learned Tribunal, but in the present case, no such inference is drawn; therefore, the facts are distinguishable.

11. Accordingly, I do not find any good ground to interfere with the award passed by the learned Tribunal, thus, this appeal fails and is hereby **dismissed**.

Sd/-
(Rakesh Mohan Pandey)
Judge

Siddhant