

IN THE HIGH COURT OF JHARKHAND AT RANCHI

[Civil Miscellaneous Appellate Jurisdiction]

M.A. No. 469 of 2018

MAGMA HDI, General Insurance Co. Ltd..... .. Appellant(s)

Versus

1.Rupa Devi, W/o Late Anil Rajak

2.Gunjari Devi, W/o Beni Rajak

3.Beni Rajak, S/o Late Bulaki Rajak

4.Chandani Kumari, D/o Late Anil Rajak

5.Riya Kumari, D/o Late Anil Rajak

6.Vijay Singh, S/o Late Talo Rai Respondent(s)

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CORAM :HON'BLE MR. JUSTICE KAILASH PRASAD DEO

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For the Appellant(s) : Mr. Alok Lal, Advocate.
Mr. Santosh Kumar, Advocate

For the Respondent(s) :

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04 / 06.01.2020. Heard learned counsel for the appellant.

The appellant- MAGMA HDI, General Insurance Co. Ltd. has preferred this Misc. Appeal against the impugned award dated 22.05.2018 passed by learned District Judge-cum- Motor Accident Claim Tribunal, Court No.1, Giridih, in Motor Accident Claim Case No.39 of 2014, whereby, the claimants/respondents, namely, Smt. Rupa Devi W/o Late Anil Rajak, Smt. Gunjari Devi W/o Sri Beni Rajak, Beni Rajak S/o Late Bulaki Rajak, Chandani Kumari and Riya Kumari (both minors and daughters of Late Anil Rajak, represented by their mother, Smt. Rupa Devi) have been awarded compensation to the tune of Rs.6,80,400/- with simple interest @ 9% per annum till realization w.e.f. June, 2014 the month when claim petition was filed in the Tribunal.

Learned counsel for the appellant has further submitted that the appellant-Insurance Company has assailed the impugned Award on the ground that the registration of the vehicle has already expired on the date of the accident.

Learned counsel for the appellant has submitted that the learned Tribunal has wrongly fastened the appellant- Insurance Company with the liability as the owner of the offending vehicle has violated the terms and conditions of the policy and thus, violated Section 66 of the Motor Vehicles Act.

Learned counsel for the appellant has submitted that the learned Tribunal has not given any right to recover the said amount from the owner of the offending vehicle in favour of the appellant-Insurance Company. Learned counsel for the appellant has further submitted that the learned Tribunal has wrongly given Rs.1,00,000/- under the conventional head which should not have been more than Rs.70,000/-, in view of the judgment rendered in the case of *National Insurance*

Company Ltd. Vs. Pranay Sethi, reported in ***(2017) 16 SCC 680***, where the conventional head has been defined in Para 59.8 to be Rs.70,000/-, as such, notice is necessary to be issued upon the respondent No.6 (owner cum driver of the tractor).

Let notice be issued upon the respondent No.6 (Vijay Singh, S/o Late Talo Rai, Resident of Village- Ranidih, P.O. Ranikhawa, P.S. Giridih (Muffasil), District- Giridih, PIN 815316, under both process i.e. Registered Cover with AD as well as under ordinary process, for which requisites etc., must be filed by 13th January, 2020.

Put up this appeal after service of notice.

(Kailash Prasad Deo, J.)

Sandeep/R.S.