

(2018) 02 CHH CK 0136

Chhattisgarh High Court

Case No: Miscellaneous Appeal (C) No. 282 Of 2012

Reliance General Insurance
Company Limited

APPELLANT

Vs

Sewaram urf Sheetal Ram Netam
And Ors

RESPONDENT

Date of Decision: Feb. 7, 2018

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166, 173

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Rohitashva Singh, N.K. Thakur

Final Decision: Dismissed

Judgement

P. Sam Koshy, J

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act, 1988 challenging the award dated 11/05/2011

passed by the learned Second Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Motor Accident Claim Case No.59/2010.

2. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of

Rs.2,76,000/- with interest @ 6% per annum from the date application.

3. The counsel for the appellant/Insurance Company submits that, the impugned award fastening the liability upon the Insurance Company is bad in

law, as the deceased in the instant case was traveling as a gratuitous passenger and risk of the gratuitous passenger would not be covered under the

policy which has been issued by the Insurance Company.

4. However, perusal of record would show that, the Insurance Company has not led any evidence of an officer of the Insurance Company in this regard. The only witness examined on behalf of the Insurance Company is a witness from the office of RTO, Raipur who has also not dealt with the issue of gratuitous passenger.

5. Moreover, from perusal of the policy it reflects that, the policy issued was a package policy and it is settled position of law that a package policy would include the risk of the occupant on the vehicle insured by the Insurance Company.

6. Undisputedly, the deceased in the instant case was an occupant in the offending vehicle at the time of the accident.

7. The opinion of this Court on the issue that the risk of the occupant also would be covered under the package policy stands fortified from the decision of the Hon'ble Supreme Court in the case of National Insurance Company Limited v. Balakrishnan & Anr. [2013 1 SCC 731] and also 2011 ACJ 1415 (Del) .

8. In the absence of any strong evidence led by the Insurance Company and also taking note of the fact that, the policy issued was a package policy, this Court does not find any strong case made out by the counsel for the Insurance Company calling for an interference with the impugned award.

9. The appeal thus being devoid of merits deserves to be and is accordingly rejected.