

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 194 of 2014

Smt. Padma Bai, Widow of Late Kapoor Ram, aged About 24 years,
resident of Chargaon, P.S. Bhanpuri, Distt. Bastar C.G.

---- Appellant

Versus

1. Kanti Lal Pandey, S/o Dayaram Pandey, resident of Kamela, Post-Bade Kanera, P.S. Kondagaon, Distt. Bastar C.G. (**Owner**)
2. Branch Manager ICICI General Insurance Co.Ltd., 304-306 Third Floor, Lal Ganga Shopping Mall, G.E. Road, Raipur, Distt. Raipur C.G. (**Insurer**)
3. Sakaru Ram S/o Late Aayaturam, resident of Chargaon, P.S. Bhanpuri, Distt. Bastar C.G (**Claimant**).
4. Smt. Budhanti, wife of Sakaru Ram, resident of Chargaon, P.S. Bhanpuri, Distt. Bastar C.G).

---- defendants

For Appellants	:	Mr. Pravin Tulsyan, Advocate
For Respondent No.1	:	Mr. Amiyakant Tiwari, Advocate
For Respondent No. 2	:	Mr. Saurabh Sharma, Advocate
For Respondents 3 & 4	:	None

Hon'ble Shri Justice Goutam Bhaduri

Judgment/order on Board

04.08.2015

1. This is an appeal against the award dated 10.09.2013 passed in claim Case No.146 of 2012 by the Additional Motor Accidents Claims Tribunal (FTC), Bastar Jagdalpur (C.G) whereby the Tribunal has awarded Rs.5,51,000/-.
2. The claim petition was filed by the wife of deceased pleading that her husband was driver of a Tractor bearing Engine No. D10017156 and Chasis No.T-7016637 belonged to non-applicant No.1 Kantilal Pandey. It was stated that on 23.05.2007 while he was driving

the said Tractor, it turned turtle and the deceased came under the said Tractor and died. In the claim petition, the father and mother of deceased were also made as party respondents 3 & 4. On different heads, a total compensation of Rs.8,20,000/- was claimed for the death of deceased.

3. The trial Court after evaluating the facts and evidence on record has passed an award of Rs.5,51,000/-. During the trial before the Tribunal, both the parties submitted to the jurisdiction to decide the case under Section 166 of the M.V.Act and accordingly it was adjudicated. The parties herein before this Court do not dispute such adjudication at this moment. The appeal is by the claimant wife. It is only contended that the apportionment of the claim which has been made in between the claimant wife and respondent 3 & 4 i.e., father and mother of deceased is under challenge.
4. The learned counsel for the appellant/claimant submits that the apportionment to the equal extent between the wife and the parents of deceased would lead to deprive the right of wife for the reason that though the father and mother have been arrayed as respondents but they have not claimed any sum. It is because of the fact that the parents of deceased were made as party/respondents in the claim petition, the award was passed in their favour.
5. No representation is made on behalf of respondents 3 & 4 before this Court. Learned counsels appearing on behalf of the respondent/owner Kantilal Pandey and the Insurer ICICI also do not dispute the fact that an amount of Rs.5,51,000/- was awarded. It is submitted that the amount under award with the interest has been deposited before the executing Court. It is also submitted that the apportionment of the award is in dispute between the claimant appellant and the respondent parents and therefore they do not want to make any submission on that issue.

6. I have gone through the award passed by the Tribunal. Reading of the award would go to show that the petition was preferred by claimant Smt. Padma Bai, wife of deceased wherein the mother and father were made as party/respondents 3 & 4. The learned court below while passing the award under Section 166 of the MVA has granted a total compensation of Rs.5,51,000/- with interest @ 6% per annum and has directed that respondents 3 and 4 i.e., the parents would also be entitled to receive the compensation to the equal extent.
7. Reading of the statement of the claimant wife shows that it has come out in her cross examination that the deceased was her husband and she as also the deceased used to live with the mother and father of deceased i.e., respondents 3 & 4 . It is further stated that the mother and father also used to do job of labour.
8. Considering the statement of claimant and the fact that the petition has been preferred by the wife and taking into the age of the wife that she was 24 years old at the time of incident, in the opinion of this Court, it would be just and proper if the amount of compensation is awarded to the extent of 50:50 between the claimant wife and respondents parents. Consequently it is directed that out of total compensation of Rs.5,51,000/-, the mother and father will get 50% of the award i.e., 25% each while the wife would get 50% of the award with interest.
9. With the above observation, this appeal stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**