

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal (C) No. 617 of 2007**

Lokesh Kumar Sahu Aged 42 years, S/o Kartik Ram Sahu, R/o village Kopra, PS and Tehsil Rajim, District Raipur, Chhattisgarh.

---- Appellant**Versus**

1. Dhan Bai W/o Bishat Satnami, Age 30 years.
2. Harinarayan, Age 12 years.
3. Bharti, Age 10 years.
4. Gayatri, Age 08 years.
No. 2 to 4 are minors, through Legal Guardian Dhan Bai.
All Resident of Gram Choubey Bandha, Tahsil and PS Rajim, District Raipur, Chhattisgarh.
5. Padma Bai Age 37 years, W/o Nildas Panika.
6. Ku. Kamini Age 15 years.
7. Pohat Age 13 years.
Respondent No. 5 and 6 S/o Nildas and they are minor. Through: Guardian (Mother) Smt. Padma Bai.
All Resident of village Chaitra, Police Chowki Fingeshvar, PS And Tahsil Rajim, District Raipur, Chhattisgarh.
8. Sonti Bai W/o Nandlal Satnami R/o Chaubey Bandha, PS Rajim, District Raipur, Chhattisgarh.
9. Dharmendra S/o Bishat Ram Satnami, Aged about 6 years R/o Gram Choubey Bandha, Tahsil and PO Rajim, District Raipur, Chhattisgarh.

---- Respondents.

For Appellant : None.
For Respondents : None.

Hon'ble Shri Deepak Gupta, Chief Justice
Judgment on Board

02/12/2016

1. This appeal by the Appellant is directed against the award dated 23.01.2007 passed in Claim Case No. 5 of 2006 by the Additional Motor Accident Claims Tribunal, Gariyaband, District Raipur (hereinafter called 'the Tribunal') whereby the claim petition filed by the Respondents-Claimants was allowed and they were awarded compensation of Rs. 4,30,000/-. The award has been passed against the Driver and Owner of the offending vehicle.
2. Appellant is the owner of the offending vehicle-Matador bearing registration No. CG-04-ZB-0265. Respondents No. 1 is the widow of deceased-Bishat Satnami and Respondents No. 2 to 4 are minor children of the deceased. Respondent No. 5 to 7 are the legal heirs of the driver of the offending vehicle.

3. The claimants filed a claim petition alleging that on 23.04.2004 at about 8 pm, deceased-Bishat Satnami was going on his motor-cycle bearing registration No. CG 05 9125 at a slow speed. When the deceased was near the Tahsil Office, one Matador bearing registration CG-04-ZB-0265 came from behind. The Matador was being driven at a high speed and it crushed the motor-cycle of the deceased causing injuries to him and ultimately, he died as a result of those injuries.
4. The learned Tribunal held the income of the deceased to be Rs. 3000/- per month and after deducting 1/3 towards the personal expenses and applying the multiplier of 17 keeping in view the age of the deceased being 32 years, the compensation was assessed at Rs. 4,08,000/-. After awarding some amounts under various heads, viz. loss of consortium, loss of love and affection, funeral expenses etc., a total sum of Rs. 4,30,000/- has been awarded to the claimants.
5. The owner of the Matador has filed this appeal and the main grievance is that the deceased himself was liable for the accident. Before the Tribunal, the claimants examined the eyewitness-Tikam (PW-2) who supported the case of the claimants and clearly stated that the Matador driver was at fault. No evidence was led by the owner of the Matador to prove the contributory negligence. It is apparent that the Matador was not insured.
6. After carefully going through the evidence on record, I am clearly of the view that the plea raised in this appeal that the deceased was guilty of contributory negligence, is not at all proved. Therefore, I find no merit in this appeal. It is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE