

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 245 of 2008**

1. Gopal Krishna Jaiswal, aged about 47 years, S/o late JP Jaiswal, partner M/s Auto Farm, Raipur Road, Parsada, Bilaspur (CG).
2. Amit Jaiswal, aged about 41 years, S/o Shri K. L. Jaiswal, Jarhabhata, District - Bilaspur (C.G.).

-----Appellants.**Versus**

1. Motibai Caste Suryavanshi, Aged about 50 years, W/o late Dujram, R/ village Rasauta, PS & Tehsil Pamgarh, Distt. Janjgir Champa (CG).
2. Santu Banjare aged 26 years, S/o Shri Mithulal Banjare, R/o Village - Rasauta, P.S. & Tehsil - Pamgarh, District - Janjgir Champa (C.G.)
3. Raja Ram, aged about 44 years, S/o Shri Bhagwat, R/o Ambedkar Chowk, P.S. & Tehsil - Pamgarh, District - Janjgir Champa (C.G.)
4. Gendram Banjare, aged 25 years, S/o Shri Mithulal Banjare, R/o Village - Rasauta, P.S. & Tehsil - Pamgarh, District - Janjgir Champa (C.G.)

-----Respondents

For Appellant	:	Ms. Savita Punjabi under instructions of Shri Mukesh Sharma, Advocate.
For respondent No.1	:	Shri Shantanu Kumar, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****02.11.2017.**

1. The present is an appeal under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 31.10.2007 passed by the 2nd Additional Motor Accident Claims Tribunal, Janjgir (for short, the Tribunal) in Claim Case No.43 of 2007.
2. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act in a death case has awarded a compensation of Rs.1,17,000/- to the claimant along with interest @ 6 percent per annum. Since the vehicle was not insured, the liability of payment of compensation has been fastened upon the appellant-owner and driver-respondent No.2 jointly and severally.

3. The present appeal is by the appellant who is said to be the dealer in respect of sale of tractors. According to appellants, they have been falsely implicated in the case inasmuch as the vehicle itself was standing in the showroom at the time of accident. The said tractor was not sold and that the accident had occurred with some other vehicle but the vehicle of the present appellants have been falsely implicated in the said case. She further submits that there is no evidence also which has been brought on record to show that the vehicle was sold and was in use at the time of accident so as to justify the liability which has been fasted upon them.
4. It was further contended by the appellants-owner that the witnesses also have not clearly identified the present appellants identifying them to be the owner of the vehicle. Based on the said set of evidence, she prayed for setting aside the impugned award and for shifting the liability upon the respondents No.2&3.
5. A perusal of record would show that immediately after the accident an FIR was also lodged in respect of the same accident and a criminal case for offence under Section 304-A IPC was also registered against the respondent No.2 Santu, the driver of Tractor. That, before the Tribunal the claimant has led her evidence. Two more witnesses were also examined on behalf of the claimant. On behalf of respondents, only the present appellants had entered the witness box and deposed before the Tribunal. All the witnesses on behalf of the claimant have categorically stated the present appellants to be the owner of the vehicle and Santu Banjare, respondent No.2, to be the driver of the

vehicle at the relevant point of time.

6. There is no strong material brought on record to show that the averment made by the claimant's witnesses were incorrect. Neither is there any evidence with which it could be said that the appellants have been able to substantiate their contention so far as the vehicle having been sold by them after about three months from the date of accident and that the vehicle at the relevant point of time was in the showroom and was not sold to anybody. In the absence of any strong material brought on record, this court is not inclined to accept the contention put forth by the appellants and to interfere with the impugned award.
7. Accordingly the appeal being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P.Sam Koshy)
Judge

inder