

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1058 OF 2017

Branch Manager, The New India General Assurance Company Limited, Division Office, Chouhan Estate, First Floor, Post Supela District Durg, Chhattisgarh.

---- Appellant

Versus

1. Sonbati Markam Wd/o Late Mahesh Markam, Aged About 38 Years
2. Minor Samir Markam, S/o Late Mahesh Markam, Aged About 14 Years Through Natural Guardian Mother Sonabati Markam, Wd/o Of Late Mahesh Markam.
3. Minor, Ku. Charulata, D/o Late Mahesh Markam, Aged About 11 Years Through Natural Guardian Mother Sonabati Markam, Wd/o Of Late Mahesh Markam
4. Krishna Markam, D/o Late Bharoshram Markam, Aged About 60 Years
All Respondents No.1 to 4 are by Caste Gond, R/o. Village Mainpur, Tahsil Charama, Police Station Korar, District North Bastar, Kanker, Chhattisgarh
5. Narsingh Netam, S/o Manglu Ram, Aged About 44 Years Cast Gond R/o Village Malaldongri, Tahsil Charama, Police Station Korar, District North Bastar Kanker Chhattisgarh. (Driver)
6. Hemant Kumar Sahu, S/o Budhmal Sahu, Aged About 45 Years Caste Teli, R/o Village Nayapara, Post Singhanpur, Tahsil Keshkal, District Kondagaon Chhattisgarh.

---- Respondents

For Appellant	:	Mr. Raj Awasthi, Advocate.
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/08/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act, 1973 filed by the Insurance Company assailing the award dated 29.04.2017 passed by the Motor Accident Claims Tribunal, North Bastar, Kanker (C.G.) in claim case No. 94/2016.
2. The facts of the case is that deceased Mahesh Markam, aged about 44 years, while he was moving on his motorcycle on 12.05.2016, was hit by the offending Truck bearing registration No. CG-04-JB-1831. As a result of said accident, the deceased sustained grievous

injuries to which he later on succumbed. The claimant i.e. widow, minor children and the mother of the deceased had filed claim application under Section 166 of the Motor Vehicle Act. The Tribunal considering the evidence which has come on record vide impugned award has awarded compensation of Rs.45,39,000/- along with interest @ 9% per annum from the date of filing of claim application.

3. The ground for challenge raised by the insurance company is that the accident arising out of the offending vehicle is doubtful for the reason that initially FIR was lodged against unknown person and unknown vehicle. Later on, in the course of investigation the driver was detected. According to the insurance company, since there was no strong proof of accident to have arisen because of the use of the offending Truck, the liability should not have been fastened upon the insurance company. He further assailed the quantum of compensation awarded by the Tribunal claiming it to be on higher side.
4. Having considered the submission of the counsel for the insurance company and on perusal of the record, what reflects is that in due course of time the criminal case was registered against respondent No.5 and in investigation they found the respondent No.5 to be the person who was driving the offending vehicle at the time of accident. A charge sheet have also been filed against the respondent No.5.
5. What is also pertinent to take note is that the driver and owner had entered appearance before the Tribunal and had submitted their reply submitting that the accident to have arisen because of the rash and negligence act on the part of the deceased.

6. The fact that the owner and driver appeared before the Tribunal and have admitted the accident to have occurred, the contention of the appellant-insurance company in this appeal of the accident being doubtful from the offending vehicle stands negated.
7. So far as the quantum part is concerned, undoubtedly the claimant is working as Assistant Grade-II in a Government I.T.I. and earning salary of more than Rs.30,000/- per month, and in this view of the matter, the compensation awarded by the Tribunal does not warrant any interference by this court.
8. Thus, the appeal fails, the same deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

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