**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Misc. Appeal (C) No. 1279 of 2017**

Reliance General Insurance Company Limited through its Legal Officer, Reliance General Insurance Company Limited, 301-302, Corporate House, 169 RNT Marg, Opposite Jhabua Tower, Indore (M.P.) .............. (Insurer)

**---- Appellant**

**Versus**

1. Ramesh Markam S/o Mangluram Markam, aged about 28 years, R/o Village Sodma, Post Dharli, P.S. Makdi, District Kondagaon, Chhattisgarh
2. Satish Kumar Markam S/o Ramesh Kumar Markam, aged about 7 years, minor through natural guardian father Ramesh Ram Markam S/o Mangluram Markam, R/o Village Sodma, Post Dharli, P.S. Makdi, District Kondagaon, Chhattisgarh
3. Ku. Savita Markam S/o Ramesh Markam, aged about 5 years minor through natural guardian father Ramesh Ram Markam S/o Mangluram Markam, R/o Village Sodma, Post Dharli, P.S. Makdi, District Kondagaon, Chhattisgarh ..............(Claimants)
4. Shivnarayan Shrimali S/o Dhanraj Shrimali, aged about 32 years R/o Village Makdi, District Kondagaon, Chhattisgarh ..............(Driver)
5. Roshan Poyam S/o Shobharam Poyam, aged about 22 years, R/o Village Sodma, Tahsil & P.S. Makdi, District Kondagaon, Chhattisgarh ...............(Owner)

**---- Respondents**

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For Appellant : Shri Sourabh Sharma, Advocate

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**Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**14/09/2017**

Heard on I.A. No.01/2017 for condonation of delay.

**2.** For the reasons assigned in the said application and finding them to be satisfactory I.A. No.01 is allowed and the delay of 38 days in filing the appeal stands condoned.

**3.** Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 28.04.2017 passed by the Additional Motor Accident Claims Tribunal, Kondagaon in Claim Case No. 146 of 2012. Vide the impugned award the Tribunal in a proceeding under Section 166 of the MV Act has granted compensation of Rs.8,52,000/- with interest @ 6% from the date of application to the claimants.

**4.** The contention of the counsel for the appellant is that the quantum of award is on the higher side. The further contention of the counsel for the appellant is that the Insurance Company has not been granted sufficient opportunity to lead evidence to substantiate their contention.

**5.** A perusal of the record would show that the deceased in the instant case was aged around 26 years and that he was working as a labour. The Tribunal in the instant case has taken income of the deceased at Rs.4,500/- a month which is just about Rs.150/- a day and that the same, under any circumstance, cannot be said to be on a higher side. So far as the compensation under conventional head is concerned, considering the ratio of law laid down by the Hon'ble Supreme Court in the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54**, this Court is of the opinion that the said amount of compensation i.e. Rs.2,40,000/- also cannot be said to be on a higher side.

**6.** So far as the opportunity of hearing is concerned, the proceedings reveal that the claim application was filed in the year 2012 and it went on till the date of judgment i.e. 28.04.2017 for about 5 years. The Insurance Company has not been able to show as to why they could not lead evidence at the appropriate stage when the matter was fixed for evidence of the Insurance Company. In addition, even the Insurance Company has not taken an additional ground in the present appeal showing as to what exactly is the breach of policy condition for which they intended to lead evidence.

**7.** For all the aforesaid reasons this Court is of the opinion that there is no strong ground available worth admitting the appeal. The appeal thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(**P. Sam Koshy)**
**JUDGE**

Bhola