

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1344 of 2017**

The Oriental Insurance Company Limited Through The Branch Manager, Branch Office Medical College Road Jagdalpur District Bastar, Chhattisgarh

---- Appellant**Versus**

1. Raibari Netam Wd/o Vishwanath, Aged About 49 Years R/o Dongaripara Kondagaon District Kondagaon, Chhattisgarh
2. Devsingh Thakur S/o Dalluram, Aged About 27 Years, Permanent Resident Patelpara, Fafani, Presently Resides At Kudagaon, Post Chapka, Majula Road, Thana Bhanpuri, District Bastar, Chhattisgarh
3. Shekh Gaffar (Dead) Through Lrs
 - 3 . (a) Shekh Akhtar Aged about 27 Years S/o Late Shekh Gaffar,
 - 3 . (b) Smt. Farida Begum Aged about 51 Years Wd/o Late Shekh Gaffar,
 - 3 . (c) Shekh Arif Aged about 25 Years S/o Late Shekh Gaffar,

Respondents 3(a) to 3(c) are R/o Village Balenga, District Bastar, Presently Residing At Ravindranath Tagore Ward, Behind Kalibari School, Jagdalpur, District Bastar, Chhattisgarh

----Respondents

For Appellant	:	Mr. N.K. Malaviya, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/10/2017**

1. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 20.06.2017, passed by the Motor Accident Claims Tribunal, Kondagaon, District Bastar, Chhattisgarh, in Claim Case No. 96/2014.
2. Vide the impugned award, the Tribunal in a claim case under Section 166 of Motor Vehicles Act has awarded a compensation of Rs.8,09,000/- with interest @ 9% per annum from the date of application.

3. The solitary ground for challenge is that the Tribunal has erred in not appreciating the fact that there was a contributory negligence on the part of the deceased person for the accident to occur and therefore the award deserves suitable modification.
4. The only factor which the Insurance Company intent to rely upon the deposition of the investigating officer of the criminal case who has exhibited the spot map indicating the accident to have occurred on the left side of the road.
5. Perusal of the spot map does not indicate any such inference which could be drawn with which the contributory negligence could have been fastened upon the deceased person.
6. The factor of contributory negligence cannot also be attributed in the present case for the reason that the deceased in the instant case Laksheshwar was a pillion rider. For the aforesaid reason, this Court is of the opinion that the appellant-Insurance Company has not been able to bring sufficient material before the Tribunal to establish the negligence on the part of the deceased or the person, who was driving the motorcycle with which contributory negligence could have been established.
7. For the aforesaid reasons, this Court is of the opinion that the appeal does not have any merit and the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge