

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1426 of 2017**

1. State Of Chhattisgarh Through The Collector, District Kondagaon, Chhattisgarh
2. The Director General Of Police, Police Headquarter, Indrawati Bhawan, Naya Raipur, Chhattisgarh

---- Appellants**Versus**

1. Smt. Kandaro Mandavi W/o Late Sanau Ram Mandavi, Aged About 46 Years.
2. Smt. Ramshila Mandavi D/o Late Sanau Ram Mandavi, Aged About 26 Years
Both are R/o Village Khetarpal, Tahsil Keshkal, District Kondagaon, Chhattisgarh
3. Divakar Pandey S/o Harishankar Pandey, Aged About 61 Years R/o Village Patehara Chourhan Tola, Police Station And Tahsil Baikunthpur, District Riwa (M.P.) Present Address M T Head Constable No. 1050, Armed Force, 13th Battalion Bango, District Korba, Chhattisgarh

----Respondents

For Appellants	:	Mr. D.R. Minj, Dy. G.A.
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****27/10/2017**

1. Heard on I.A. No.1, which is an application for condonation of delay.
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 148 days in filing the appeal stands condoned.
2. Present is an appeal under Section 173 of Motor Vehicles Act by the State Government. The challenge is to the award dated 14.02.2017, passed by the Motor Accident Claims Tribunal, Kondagaon, District Kondagaon, Chhattisgarh, in Motor Accident Claims Case No. 57/2016.

3. Vide impugned award, the Tribunal in a death 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.
4. The challenge to the appeal is on the ground that the Tribunal ought to have appreciated the fact that since there was a head of collision, there was an element of contributory negligence on the part of the deceased, the amount of compensation should have been suitably reduced. He further submits that it is a case where the State has not been granted sufficient opportunity either to submit the written statement nor has it been permitted to lead evidence to support their contentions.
5. It was contended that the quantum awarded by the Tribunal also on the higher side in as much the notional income assessed and the multiplier applied also is on the higher side. Further, the Claimant No.2, the sister was not a dependent to the deceased and therefore the impugned award deserves to be interfered with.
6. Having perused the record, what clearly reflects is that the State Government/appellant was duly served of the notice issued by the Tribunal, but yet they did not take prompt action for filing of their written statement.
7. Further, it is also reveals that the State had entered appearance by filing the Vakalatnama, but yet they did not take steps for setting aside of the ex-parte proceedings and to bring on record its written statement.

8. Further, what is reflected from the proceedings is the fact that the Claimant at the time of evidence, adduced the evidence of an eyewitness, who has stated that the Truck had hit the deceased while he was traveling on the motorcycle on the left side of the road and thereafter had dragged him to the right side of the road, which by itself would show the rash and negligent driving on the part of the Driver of the offending Truck.
9. So far as the income part is concerned, the income assessed by the Tribunal is at Rs.4,500/- a month, which under no circumstances can be said to be excessive as in the year 2016, the minimum income prevalent for an unskilled labour was more than Rs.200/- a day and therefore if the Tribunal has taken the income as Rs.4,500/- a month, it cannot be said to be either excessive or exorbitant.
10. So far as the multiplier is concerned, it is the multiplier of 18, which has been applied and which is based upon the principles as laid down by the Hon'ble Supreme Court in the case of ***"Sarla Verma & Ors. vs. Delhi Transport Corp. & Anr."* (2009) 6 SCC 121**).
11. So far as the sister not being a dependent, there is evidence before the Tribunal of the sister being unmarried and therefore, the stand taken by the appellant-State is not sustainable. Thus, the appeal of the State Government being devoid of merit deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge