

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.1524 of 2017

Bhagwati Prasad (dead) through his legal heirs.

1. Smt.Savitri Bai Wd/o Late Bhagwati Prasad, aged about 54 years.
2. Sanju Kumar S/o Late Bhagwati Prasad, aged about 36 years.
3. Anil Kumar S/o Late Bhagwati Prasad, aged about 32 years.
4. Lalit Kumar S/o Late Bhagwati Prasad, aged about 30 years.

All are R/o Gopi Mahka Kharsiya, Tahsil Kharsiya, District Raigarh (C.G.).

---Appellants

Versus

1. Indrakumar Gabel S/o Baldev Kumar, R/o S.E.C.L. Domannara Colony, Post Farkanara, Tahsil Kharsiya, District Raigarh (C.G.), permanent R/o Village Purena, Tahsil Kharsiya, District Raigarh (C.G.) (Driver).
2. The New India Insurance Company Limited, through Branch Manager, Branch Office, Sattigudi Chowk, Raigarh, Tahsil and District Raigarh (C.G.).

---Respondents

For the appellants	:	Shri Abhishek Saraf, Advocate.
For resp No.2/Insurance Company	:	Shri Sudheer Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/11/2017

1. Present is an appeal by the claimants under Section 173 of the Motor Vehicle Act assailing the award dated 22/08/2017 passed by the learned Fourth Additional Motor Accident Claims Tribunal, Raigarh (C.G.) in Motor Accident Claim Case No.94/2014.
2. Vide the said impugned award, the Tribunal has rejected the injury case as the injured pending the Claim Case had died.

3. This Court without entering into the merits of the case is of the opinion that, the legal position as it stands is well settled that, the claimants though the actual injured person had died would still be entitled for the pecuniary losses that has been incurred by the family of the injured during the course of the injury according to the provision of Section 306 of Indian Succession Act.

4. The said opinion of this Court stands fortified by the full bench decision of the Madhya Pradesh High Court in the case of **Bhagwati Bai & Anr. Vs. Bablu & Ors. [AIR 2007 MP 38]**.

5. Accordingly, the impugned award deserves to be and is set aside and the matter is remitted back to the concerned Tribunal for a fresh adjudication to decide the pecuniary losses, if any, after awarding the parties an opportunity to adduce evidence in this regard.

6. The appeal thus stands disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE