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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1347 of 2016

- Shri Ram General Insurance Co. Ltd. Address- E/8, RIICO Industrial Area, Sitapura, Tahsil & Distt. Jaipur (Rajasthan) Through Authorized Officer ....(Insurer of Truck No. C.G.04/ D.A/8759)

---- Petitioner

Versus

1. Santram Sahu S/o Late Fagua Ram Sahu, Aged About 39 Years
2. Santu Sahu S/o Late Fagua Ram Sahu, Aged About 37 Years
3. Kuwar Singh S/o Late Fagua Ram Sahu, Aged About 31 Years

   All R/o Gram Bana, Thana Urala, Tahsil & District Raipur, Chhattisgarh ....(Claimants)

4. Vittal Kuthay S/o Shiv Ram Kuthay, Aged About 45 Years, R/o Gram Garagao, Thana Lakhani, Distt. Bhandara (Maharastra) ....(Driver Of Truck C.G.04/ D.A/8759)
5. Surendra Singh S/o Ajit Singh Sikkha, Aged About 41 Years R/o Ring Road No.02, Tatibandh, Raipur Tahsil & Distt. Raipur, Chhhattisgarh Hall Mukam Plot No. 190, Kamti, Nagpur (Maharastra) ....(Owner Of Truck C.G.04/ D.A/8759)

---- Respondents

For appellant — Shri Deepak Gupta, Advocate
For Respondent Nos.1 to 3 — Shri C. K. Sahu, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

11/07/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth 'the Act, 1988') assailing the award dated 20.06.2016 passed by the 6th Additional Motor Accident Claims Tribunal, Durg in Motor Accident Claim Case No.82/2014. Vide the said impugned award, the court below on a claim application filed by the respondent Nos.1 to 3 (hereinafter would be referred to as the claimants) under Section 166 of the Act, 1988 has though refused to grant compensation for loss of income and dependency but has granted compensation under the head of 'loss of love and affection' amounting to Rs.3 lakhs and funeral expenses to the tune of Rs.25,000/-, thus totaling Rs.3,25,000/-.

2. It is this award which is under challenge by the appellant Insurance Company. The solitary ground, which the appellant has raised, is the fact that the claimants in the instant case are three major sons of the deceased and all of whom are married and self dependent, therefore, they would not be entitled for any compensation for the death of the deceased. It was the contention of the learned counsel for the appellant Insurance Company that the claimants were not in any manner dependent upon the deceased and all the claimants were married and settled down in their life. Hence, as they were not dependent to the deceased, they would not have been entitled for any compensation and the impugned award thus deserves to be interfered with. Learned counsel for the appellant relied upon the judgment of the Supreme Court passed in the case of

Manjuri Bera (Smt.) vs. Oriental Insurance Company Ltd. and another[1] to support his contention.

3. Learned counsel for the claimants, however, opposes the appeal and submits that it is a case where the Tribunal has passed a well reasoned and speaking award and it does not warrant any interference. It was further contended that the award passed by the Tribunal is based upon the evidences, which have come on record and, therefore, the finding being a finding of fact does not warrant interference by this Court.

4. Having considered the rival contentions on either side and on perusal of the record, foremost what strikes is the fact that in paragraph 11 of the impugned judgment, it clearly reflects that the appellant Insurance Company has not led any oral or documentary evidence to substantiate its contention before the Tribunal and the Tribunal itself has not granted any compensation under the head of 'loss of income or dependency' to the claimants. All that the compensation that has been given to the claimants is towards the loss of love and affection and the compensation awarded of Rs.1 lakh to each of the claimants in view of the decision rendered by the Supreme Court in case of **Rajesh and others vs. Rajbir Singh and others**[2]**.** Further, the compensation under the head of funeral expenses to the tune of Rs.25,000/- also cannot be said to be unreasonable or bad in law. What is pertinent to

1 (2007) 10 SCC 643
2 (2013) 9 SCC 54

take note of the fact that three claimants before the Claims Tribunal were youths, aged in their thirties, and that it was at this young age that they lost their father because of an accidental death. In the given facts and circumstances of the case, if the Tribunal has taken into consideration the loss of love and affection of a father, the same cannot be said to be unreasonable, bad in law or perverse in any manner.

5. So far as the judgment which has been relied upon by the Insurance Company is concerned, the said judgment also in very categorical terms has held that even if there is no loss of dependency, the claimant who is the legal representative will be entitled for compensation under the provisions of the Act, 1988 and, therefore, the said judgment, though has been relied by the appellant, would favour the claimants more. In view of the same, this Court does not find any merits on the arguments raised by the appellant Insurance Company and the appeal being devoid of merits deserves to be and is accordingly dismissed.

Sd/-

P. Sam Koshy

Judge

Nirala