

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 401/2017

Ashok Kumar Jain (Malu) S/o Shri Pannalal Jain (Malu), Aged About 41 Years R/o Village Tongpal, Tahsil Konta, Distt. Sukma, Chhattisgarh

---- Appellant

Versus

1. Smt. Midiyami Ayate W/o Late Midiyami Joga, Aged About 40 Years R/o Village Leda, Tahsil Konta, District Sukma, Chhattisgarh
2. Maniram Dhurva S/o Somaru Ram Dhurva, R/o Village Tongpal, Tahsil Konta, Distt. Sukma, Chhattisgarh

---- Respondents

For Appellant	:	Mr. Akash Pandey, Advocate on the instructions of Mr. Prafulla Bharat, Advocate and Mr. S. Bajpai, Advocate
For Respondent No.1	:	Mr. P.K. Tulsyan, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/08/2017

1. Heard on I.A. No.1. The reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed the delay in filing the appeal stands condoned. Also heard on admission.
2. Present is an appeal under Section 173 of the Motor Vehicle Act, 1973 filed by the Insurance Company assailing the award dated 11.11.2016 passed by the 1st Additional Motor Accident Claims Tribunal, South Bastar, Dantewada (C.G.) in claim case No. 316/2014. Vide impugned award, the Tribunal in a proceeding under Section 166 of the M.V. Act filed by the respondent No.1 has allowed the compensation of Rs.2,84,200/- along with interest @ 6% per annum. It is this award which is under challenge.
3. Present appellant is the owner of the offending vehicle i.e. Truck bearing registration No. CG-18-ZB-0162. According to the case of the respondent No.1, on 21.02.2013 an accident took place near Temorpali, Hatpara, P.S. Mathli, District Malkangiri, Orissa allegedly with the vehicle belonging to the present appellant. On account of

the said accident, the deceased Midiyami Joga, aged around 30 years sustained grievous injuries to which he later on succumbed. The respondent No.1 is the wife of the deceased. The Tribunal taking into consideration the pleadings and evidence which has come on record vide impugned award granted the claimant compensation of Rs.2,84,200/- with interest.

4. The contentions of the learned counsel for the appellant assailing the impugned award is that, in fact the vehicle belonging to the appellant was not at all involved in the alleged accident. In support of his contentions, he relies upon the judgment of the Judicial Magistrate First Class, Malkangiri in GRC No. 60/2003 TR No. 102/2007 whereby the driver of the offending vehicle belonging to the appellant was prosecuted for the offence punishable under Sections 279 and 304-A of I.P.C. and also under Sections 187, 192 & 196 of the M.V. Act. Said case was decided on 09.05.2007 whereby the driver of the said vehicle was acquitted from all the charges which were leveled against him. He further submits that even the so called eye-witness to the incident were not examined before the Court below, to establish the accident. Further submits that the witnesses who have been examined on behalf of the claimants there are material contradiction in their statements which were made before the criminal court and therefore the findings of the Tribunal is bad in law.
5. Having considered the contentions on behalf of the appellant when we look into the case it is apparent that, the acquittal of the driver of the offending vehicle by the Court of Malkangiri was on account of prosecution not being able to substantiate the case before the Criminal Court. It is settled proposition of law with standard of proof required for establishing the criminal case is entirely different as compared to the standard of evidence required for deciding the claim case under Motor Vehicle Act. In a criminal case, it is always an evidence with which the offence is to be proved beyond all reasonable doubts before holding the accused guilty, whereas such strong standard of evidence is not required in a claim case under M.V. Act.
6. Further what is also required to be seen is that in the present case

was filed by claimant in the Court of Dantewada, whereas the accident occurred in district Malkangiri and therefore also it cannot be presumed that the same witnesses would have also been examined during the course of the claim case. What is primarily to be taken note and which in fact the trial Court has taken note off is that driver of the offending vehicle was prosecuted for the offence punishable under Sections 279 & 304-A of I.P.C. and also under Sections 187, 192 & 196 of the M.V. Act.

7. It is pertinent that criminal case was lodged against the driver of the offending vehicle and that he was subjected to trial. The acquittal in the criminal case primarily was for the reason that the Investigating Officer himself was not examined before the criminal court as such the acquittal may not be of much relevance to the present claim case.
8. So far as the evidence which have been brought by the claimants before the Court below, there is sufficient strong evidence against the present appellant to reach to the conclusion that it was the vehicle belonging to the appellant, which was involved in the accident resulting in the death of the deceased.
9. Thus this court does not find any strong case for admitting the appeal and therefore it deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge