

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1365 of 2008**

The Oriental Insurance Company Limited, Parmanand
Bhawan Rajendra Park, Chook, Durg, District Durg (C.G.).
Through Divisional Manager, Divisional Office, Durg (C.G.).

---Appellant**Versus**

1. Smt.Rubina W/o Late Mo.Asif, aged 25 years.
2. Ku.Sania Sekh D/o Late Mo.Asif, aged 2 years 6 months,
Through Legal Guardian Mother Smt.Rubina.
3. Ku.Ziya Sekh D/o Late Mo.Asif, aged 1 year, Through Legal
Guardian Mother Smt.Rubina.
4. Mo.Israil S/o Late Sekh Mainu Minya, aged about 62 years.
5. Smt.Azimun Nisha W/o Late Sekh Mainu Minya, aged about
60 years.

All are R/o Kelabari Opp. of Maszid Durg, District Durg (C.G.).

6. Nirmal Singh S/o Baldeep Singh, aged 35 years, R/o Through
Comboz Road Carriars Tatibandh, Raipur & Hirapur Raipur
(C.G.).

---Respondents

For appellant	:	Shri Raj Awasthi, Advocate. (Appointed by the court).
For respondents	:	Shri B.N.Nande, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14/11/2017**

1. Present is an appeal by the Insurance Company challenging the award dated 19/08/2008 passed by the learned Motor Accident Claims Tribunal, Durg (C.G.) in Motor Accident Claim Case No. 93/2007. Vide the said impugned award, the Tribunal in a Claim Case under Section 166 of the Motor Vehicle Act has awarded the compensation of Rs.11,35,750/- with interest @ 6% per annum from the date of application.

2. The challenge to the impugned award is mainly on three grounds. Firstly, the Tribunal has not appreciated the factum of contributory negligence. Second, the quantum of compensation awarded is on the higher side and third, the imposition of penal interest is also bad in law.

3. So far as contributory negligence is concerned, perusal of record show, that the offending vehicle i.e. the Truck had dashed the Tata Sumo from the rear side and as such there cannot be said to have any contributory negligence on part of the driver of the Tata Sumo. Thus, this ground raised by the counsel for the appellant stands negated.

4. So far as quantum part is concerned, the evidence which have come on record show, that the deceased in the instant case was working as an accountant in a Poultry Farm and drawing the salary of Rs.8,000/-. Considering the fact, that it is the accident of the year 2007, it cannot be said that the amount of Rs.8,000/- which an accountant was drawing to be excessive or exorbitant. Thus, the said ground also stands negated.

5. Further this court is of the opinion, that imposition of penal interest while passing the impugned award may not be given effect to at this juncture.

6. In view of the fact that since, this court does not find any strong case made out by the counsel for the appellant to interfere with the impugned award, the appeal stands dismissed. However, considering the fact that the award is of the year 2008 it is made clear, that the imposition of penal interest shall be come into effective from today and in the event if, the balance of amount is

not deposited within a period of two months, the penal interest as awarded by the Tribunal shall come into operation.

**Sd/-
(P. Sam Koshy)
Judge**

Sumit