

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1365 OF 2009

1. The Oriental Insurance Company Limited, through Branch Manager, Kutchery Chowk, Madina Manzil, Raipur (C.G.)
2. The Oriental Insurance Company Limited, through Branch Manager, Ambikapur, District Surguja (C.G.)

... Appellants

versus

1. Devlal Singh, S/o Shri Rupsai, aged 55 years, Caste-Gond
2. Smt. Fulkunwar, W/o Devlal, aged 48 years, Caste-Gond
3. Devsingh, S/o Devlal, aged 20 years, Caste-Gond
All three R/o Village Majholi, Thana Khadgawan, Distt. Korea (C.G.)
4. Santlal S/o Ramjiwan, aged 28 years, Caste- Kumhar, R/o Chiraipani, Thana & Tahsil- Manendragarh, District Korea (C.G.)
- 5(A). M/s Anil Construction Company, through Partner Pradeep Kumar Verma, S/o Jagdish Prasad Verma, R/o Ward No. 21, Hasia Nadi Ke Par, Manendragarh, District Korea (C.G.)
- 5(B). Bharat Bhushan Verma (Anil Construction), Haldibadi, Thana- Chirmiri, District Korea (C.G.)
6. Mohd. Manjoor Miya, S/o Shri Israil Miya, aged 33 years, R/o Bhim Dafai, Sonamani, Thana-Chirmiri, Tahsil- Manendragarh, Distt. Korea (C.G.)
7. Israil Miya, S/o Alijan Miya, aged 63 years, R/o Bhim Dafai, Sonamani, Thana- Chirmiri, District Korea (C.G.)

... Respondents

For Appellant	:	Mr. Sudhir Agrawal, Advocate.
For Respondents 5(A) & 5(B)	:	Mr. Goutam Khetrapal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/10/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 24.2.2009 passed by the Second Additional Motor Accident Claims Tribunal (F.T.C.), Manendragarh, in Motor Accident Claim Case No. 67/2007.
2. Learned Counsel for appellants submits that there was a bunch of claim applications which arose from the same accident that took place on 26.8.2005 and thus the awards also in those claim applications were subjected to challenge before this Court in MAC Nos. 756/2009, 1059/2009, 1102/2009, 774/2009, 1279/2009 and the the Division Bench of this Court on 9.1.2012 after hearing the parties had remanded the matter back to the Tribunal for a fresh adjudication.

3. It has been brought to the notice of this Court that respondent no.1 and respondent no.2 i.e. the parents of deceased-Vijay, have already been made a party in the claim case filed by the widow, i.e., Motor Accident Claim Case No. 25/2012 (renumbered), and an award has also been passed by the Second Additional Motor Accidents Claims Tribunal (F.T.C.), Manendragarh, in the said claim case on 13.5.2015.

4. The only difference now left in the present appeal is in respect of respondent no.3 who happens to be a major brother of the deceased and who perhaps would not be entitled for any compensation, particularly when the parents have already been impleaded as claimants by the widow and who have also got the compensation vide award dated 13.5.2015.

5. In view of the fact that the widow and the parents of the deceased had filed a separate claim application which has already been adjudicated upon as per the award dated 13.5.2015 referred to herein above, the award in the present appeal is no longer a good award and the same thus deserves to be and is accordingly set aside so far as the claim which arose in respect of the death of deceased-Vijay is concerned.

6. The award to that extent stands set aside and the appeal of the appellants also stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge