

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 162 of 2010**

1. Smt. Arpita Dutta, W/o. Late Devvrat Dutta, aged about 27 years,
2. Ku. Shubheksha Dutta, D/o. Late Devvrat Dutta, aged about 03 years,

Appellant No.2 being Minor on behalf of through her legal guardian mother Appellant No.1 Smt. Arpita Dutta, W/o. Late Devvrat Dutta, aged about 27 years.

Both R/o. Sunder Nagar, Raipur, Tahsil and District Raipur Chhattisgarh.

---- Appellants**Versus**

1. Jagjeevan Nag, S/o. Gagan Nag, R/o. Bairan Bazar, Raipur, Tahsil and District Raipur Chhattisgarh
2. Amit Bhutani, S/o. Tilakraj Bhutani, R/o. L.I.G.E. 34, Shailendra Nagar, Raipur, Tahsil and District Raipur Chhattisgarh
3. The New India Assurance Company Limited, Through: Divisional Manager, Divisional Office, Madina Manzil, Jail Road, Raipur, Tahsil and District Raipur Chhattisgarh
4. Smt. Bharti Dutta, W/o. Late Anish Chand Dutta, aged about 67 years, R/o. Patel Nagar, Bhuniyadih, Post Agrico, Jamshedpur, Jharkhand

----Respondents

For Respondent No. 1 & 2	:	Mr. P. Sharma, Advocate
For Respondent No.3	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****19/09/2017**

1. None for the appellants, when the matter is called. Considering the fact that it is an appeal of year 2010, this Court feels it fit for deciding the appeal taking the assistance of Shri P. Sharma, Advocate.
2. Present is an appeal by the appellants/claimants assailing the award dated 04.08.2009, passed by the 10th Additional Motor Accident Claims Tribunal, Raipur, Chhattisgarh, in Claim Case No. 113/2009. Vide the impugned award the Tribunal has awarded a compensation of Rs.1,00,000/- to the claimants with interest @ 6% per annum.

3. At the outset, without entering into the merit of the case, this Court is of the opinion that the case of the appellant before the Tribunal was that the deceased Devvrat Dutta was working as an Area Manager with Nicolas Piramal India Ltd. a pharmacist company and was drawing a salary of more than Rs.21,000/- that by itself would make the annual income of the deceased to be more than Rs.2.52 lakhs.
4. The instant claim case was filed under Section 163A of the Motor Vehicles Act. As per the schedule applicable for the claim case under Section 163, the maximum income which could be drawn by a person for a claim under Section 163-A is Rs.40,000/- annually.
5. In the instant case, since the annual income was more than Rs.2.5 lakhs, this Court is of the opinion that in the light of the decision of the Hon'ble Supreme Court in case of ***"Deepal Girishbhai Soni & others v. United India Insurance Co. Ltd. Baroda"* [2004(5) SCC 385]**, the claim case of the appellant would not had been maintainable. Similar view has also been taken by this High Court in case of ***"Oriental Insurance Company Limited v. Swatantra Kumar Verma"* [2017(1) TAC 538 (Chhattisgarh)]**. Perusal of the record would show that as per the policy conditions the liability of the Insurance Company was for a maximum amount of Rs.1,00,000/- under the personal accident coverage to the unnamed occupant, which the Insurance Company has already honoured and has deposited the amount also.
6. In view of the same this Court does not find any strong case made out by the claimants calling for any interference with the impugned award. As a consequence, the appeal filed by the claimants, so also the cross objection filed by the Insurance Company stands disposed of.

Sd/-
(P. Sam Koshy)
Judge