

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1366 of 2017**

1. Anil Manikpuri S/o Badridas Manikpuri, Aged About 19 Years R/o Village Kumhari, Post Kumhari, Tahsil Kasdol, District Balodabazar Chhattisgarh
2. Badridas Manikpuri, S/o Mansukhdas Manikpuri, Aged About 50 Years R/o Village Kumhari, Post Kumhari, Tahsil Kasdol, District Balodabazar Chhattisgarh

---- Appellants**Versus**

1. Setram Yadav S/o Late Kartikram Yadav, Aged About 48 Years Occupation Labour,
 2. Smt. Laxmin Bai W/o Late Kartikram Yadav, Aged About 64 Years Occupation Housewife,
- Respondents No. 1 & 2 are R/o Village Banjari, Tahsil Sarangarh, District Raigarh Chhattisgarh.
3. Smt. Setbai D/o Late Kartikram Yadav (Wife Late Vijaylal Yadav), Aged About 50 Years Occupation House Wife, R/o Village Pat, Tahsil Sarangarh, District Raigarh Chhattisgarh.
 4. Smt. Nanki Bai, D/o Late Kartik Ram Yadav (Wife Of Late Budhram Yadav), Aged About 49 Years Occupation House Wife, R/o Village Bade Gantuli, Tahsil Sarangarh, District Raigarh Chhattisgarh.
 5. Smt. Santoshi D/o Late Kartik Ram Yadav (Wife Of Late Ramratan Yadav), Aged About 44 Years Occupation House Wife R/o Village Rohinapali, Tahsil Sarangarh, District Raigarh Chhattisgarh
 6. Ifko Tokiyo General Insurance Company Limited, Branch Office First Floor Galaxy Heights Near I. C. I. C. I. Bank Vyapar Vihar, Bilaspur, District Bilaspur Chhattisgarh

----Respondents

For Appellants : Mr. Manoj Kumar Jaiswal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/10/2017**

1. Heard on I.A. No.1, which is an application for condonation of delay.

For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 23 days in filing the appeal stands condoned.

2. Present is an appeal by the Owner and Driver assailing the award dated 27.03.2017, passed by the Additional Motor Accident Claims Tribunal, Sarangarh, District Raigarh, Chhattisgarh, Chhattisgarh, in Claim Case No. 2/2016.
3. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.1,77,063/- with interest @ 6% per annum from the date of application.
4. While passing the impugned award the Tribunal has fastened the liability of payment of compensation upon the Driver and Owner exonerating the Insurance Company on the ground that the Driver at the relevant point of time did not have the driving license to drive a motorcycle.
5. The counsel for the appellants submits that it is a case where the accident itself is doubted in as much as the date of registering the F.I.R. was after a considerable period of time from the alleged date of accident. It was further contended that the deceased in the instant case had himself fallen on the road while riding the bicycle and the appellant had not caused the accident neither was there any dash from the vehicle belonging the appellant with the cycle which the deceased was riding.
6. A perusal of the record would show that in the return of the present appellants who were respondent No. 1 & 2 before the Tribunal, they have themselves admitted the fact that they had also fallen from the motorcycle at the place of accident, this by itself gives a strong inference to be drawn against the present appellants of the accident

to have occurred from the vehicle which was being driven by the appellant No.1 and owned by the appellant No.2.

7. In addition what also cannot be brushed aside is the fact that a case was also registered at the Police Station vide Crime No.297/2017 at Police Station Sarangarh, where an offence under Section 304A and Section 3/181 of the Motor Vehicles Act was registered against the appellant No.1 and the matter has been put to trial before the Judicial Magistrate First Class, Sarangarh, where the case has been registered as Case No.858/2015.
8. From the aforesaid factual matrix of the case, the accident having being established and the fact that the appellant No.1 did not have a license at the time of the accident forces this Court to reach to the conclusion that the Tribunal has not committed any error while deciding the matter exonerating the Insurance Company and fastening the liability upon the present appellants.
9. The appellants have not been able to bring forth any substantial material with which this Court could be convinced of taking a different view than that has been taken by the Tribunal.
10. The appeal thus being devoid of merit, the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge