

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1521 of 2017**

Bajaj Allianz General Insurance Company Limited Through
 Authorised Officer, Bajaj Allianz General Insurance Company
 Limited, Shiv Mohan Bhawan, Pandri, Raipur Chhattisgarh (Insurer)

---- Appellant**Versus**

1. Smt. Subhadra Bai Wd/o Late Mahesh Banjara Aged About 28 Years
2. Sachin Banjara S/o Late Mahesh Banjara Aged About 10 Years
3. Ku. Sarita Banjara D/o Late Mahesh Banjara Aged About 5 Years
4. Sojiram Banjara S/o Late Bhondu Banjara Aged About 50 Years
5. Smt. Janna Banjara W/o Sojiram Banjara Aged About 48 Years

Respondent No. 2 & 3 are Minors Represented Through Natural
 Guardian Mother Smt. Subhadra Bai,

All are Residing At Venkatrama Poultry Farm, Village Biladi, Block
 Tilda, Thana Nevra, District Raipur Chhattisgarh (Claimants)

6. Teekam Das S/o Lukhu @ Rekhudas Manikpuri R/o Jiyal Gali, Near
 Hind Pump, Boring Chowk, Bharat Nagar Raipur Chhattisgarh,
 Another Address Ram Nagar Karma Chowk Behind, F. C. I. Godown,
 Near Shiv Mandir, Ram Nagar, Raipur Chhattisgarh (Driver And
 Owner)

----Respondents

For Appellant	:	Mr. S.S. Rajput, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****13/11/2017**

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 03 days in filing the
 appeal stands condoned.
2. Present is an appeal under Section 173 of the Motor Vehicles Act
 assailing the award dated 31.07.2017, passed by the 1st Additional
 Motor Accident Claims Tribunal, Raipur, Chhattisgarh, in Claim Case

No. 288/2016.

3. Vide the impugned award the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.14,25,720/-.
4. Present is an appeal by the Insurance Company challenging the liability which has been fastened on two counts. Counsel for the appellant submits that firstly the Tribunal has not properly appreciated the aspect of contributory negligence, and second, the counsel for the Insurance Company also has raised a doubt, so far the vehicle, which is said to be insured by the present appellant being involved in the said accident. The counsel for the appellant further submits that the quantum of compensation awarded is also on the higher side.
5. Counsel for the Insurance Company relied upon the document (i.e. exhibit D-1), which is a report of mechanic, which shows that the vehicle involved in the accident did not suffer much damages, which creates an element of doubt, so far as the vehicle being involved in the accident at all.
6. Further, the ground of challenge is also on the fact that the report of the accident also was alleged after about 12 days from the date of accident, which again gives rise to doubt on the story put forth by the Claimants.
7. Perusal of the record would show that except for the evidence of the mechanic, there is no other witness who has been examined by the Insurance Company, with which it could be conclusively established

that the offending vehicle was involved in the accident or was responsible in any manner to the accident or has contributed to some extents in the accident.

8. Further, only because the report has been lodged at a belated stage by itself cannot be a ground to disbelieve the statement of the Claimants, particularly, when it is a case of an accident, which resulted in a death of a person.
9. Lastly, so far as the quantum is concerned, once when we look into the age of the deceased and income assessed, both are based upon the certificate provided by the employer. It appears that the Tribunal has also taken into account the income towards future prospects while computing the compensation and thus the quantum part also appears to be just and reasonable.
10. In the given facts of the case, this Court does not find any strong case made out by the Insurance Company calling for interference with the impugned award.
11. The appeal, thus being devoid of merit, deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge