

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MISC. APPEAL (C) NO. 975 OF 2010**

The Oriental Insurance Company Limited, through Branch Manager,  
Branch Office- near Ambedkar Chowk, Ambikapur, District Surguja (C.G.)

**... Appellant**

**versus**

1. Smt. Kamladevi W/o Late Ramjeet, age 37 years
2. Rajkumari D/o Late Ramjeet, age 11 years
3. Kumar Shanu S/o Late Ramjeet, age 8 years  
Both minor through natural guardian mother Smt. Kamladevi
4. Duhan Ram, S/o Amir Sai, age 65 years
5. Smt. Manmati, W/o Duhan Ram, age 60 years  
All R/o Village- Kharwat, Thana- Charcha, Tahsil- Baikunthpur,  
District Korea (C.G.)
6. Santosh Kumar Dubey @ Binku, S/o Mata Prasad Dubey, age- 36  
years, Resident- Schoolpara (Ashirwad Complex), Baikunthpur, Thana &  
Tahsil- Baikunthpur, District Korea (C.G.)

**... Respondents**

|                           |   |                               |
|---------------------------|---|-------------------------------|
| For Appellant             | : | Mr. Sudhir Agrawal, Advocate. |
| For Respondents No.1 to 5 | : | Mr. Ashok Patil, Advocate.    |
| For Respondent No.6       | : | Mr. D.N. Prajapati, Advocate. |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**21/11/2017**

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the Appellant-Insurance Company assailing the award dated 22.3.2010 passed by the Motor Accident Claims Tribunal, Baikunthpur, District Koriya, in Motor Accident Claim Case No.18/2009.
2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.5,70,000/- to the Respondents No.1 to 5/Claimants, with interest thereon at the rate of 7.5% per annum from the date of presentation of the claim application.
3. Brief facts of the case are that on 9.11.2008 the deceased in the instant case, i.e., Ramjeet, was travelling as a pillion rider along with one Kripashankar on the motorcycle (CG16-D-3317) owned by the said Kripashankar. While returning home after purchasing some articles for the

Ekadashi Puja, they were hit by a TATA Indigo Car (CG16-B-1555) belonging to Respondent No.6 herein. As a result of the said accident, the Ramjeet and Kripashankar both sustained grievous injuries. Both of them were admitted to the Government Hospital, Baikunthpur, where during the course of treatment, Ramjeet later succumbed to the injuries sustained.

4. That, arising out of the same accident, the person i.e. Kripashankar, who was driving the motorcycle at the time of accident in which the deceased-Ramjeet was travelling as a pillion rider, had also filed a separate claim application for the injuries sustained to him and the award so far as that claim case is concerned was passed passed on 22.3.2010 which was challenged by the Appellant-Insurance Company in M.A.(C) No.778/2010 and vide order dated 21.11.2017, the said appeal of the Insurance Company has been dismissed by this Court.

5. The ground of challenge in M.A.(C) No.778/2010 also is the same except that in the said appeal of injured-Kripashankar, quantum part was also under challenge. Whereas, in the instant appeal, the quantum part is not in dispute.

6. Since the said appeal of the Insurance Company, i.e. M.A.(C) No.778/2010, challenging the ground of contributory negligence, the actual registered owner not being made necessary party and the rate of interest being on the higher side, already stands dismissed by this Court vide order dated 21.11.2017 and the same ground being raised in the present appeal also, the instant appeal also deserves to be dismissed for the same reasons as has been discussed in the order dated 21.11.2017 passed in M.A.(C) No.778/2010.

7. The appeal stands dismissed accordingly.

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