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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1268 of 2017

1. Ramsurat Rajwade S/o Jainu Ram Rajwade, Aged About 26 Years
 2. Abhilas Rajwade, S/o Late Amrit Ram, Aged About 36 Years
- Both are R/o Village Bhitthikala, P. S. And Tahsil Ambikapur, District Surguja Chhattisgarh

---- Appellants

Versus

1. Geduram Rajwade S/o Late Amal Sai Rajwade, Aged About 50 Years
 2. Smt. Bhagmaniya Rajwade, W/o Geduram Rajwade, Aged About 48 Years
- Both are R/o Village Bhitthikala (Uparpara) P. S. And Tahsil Ambikapur District Surguja Chhattisgarh

---Respondents

For Appellant	:	Mr. Raghvendra Verma, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/09/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 04.08.2017, passed by the Motor Accident Claims Tribunal, Ambikapur, District Surguja, in Motor Accident Claim Case No. 214/2016. Vide the said impugned award, the Tribunal has in a claim case under Section 166 of Motor Vehicles Act has awarded a compensation of Rs.6,11,600/- with interest @ 7% per annum.
2. The challenge in the present appeal by the Driver and Owner is on the ground that the appellant has been falsely implicated in the claim case as no accident had occurred from the vehicle belonging to the appellants. It was also the ground that the quantum awarded by the Tribunal is on the higher side. According to the appellants, the deceased in the instant case was allegedly sitting on the Tractor when the accident occurred and the Tractor did not have a sitting capacity beyond the driver and therefore the claimants shall not be entitled for any compensation. It was also the contended that the FIR in the instant case was lodged after more than 10 days and the

delay in lodging the FIR also creates a doubt on the accident to have occurred from the vehicle belonging to the appellant. It was further contended that the false implication has been made because of some personal enmity between the family of the claimants as also between the family of the appellants.

3. Further it was contended that the multiplier applied in the instant case also has been falsely applied in as much as since the deceased was aged 29 years, the multiplier applied ought to have been 17 instead of 18, which has been taken into consideration. On perusal of the record it shows that there is an evidence of one Sujit Rajwade (AW/2), who is said to be an eyewitness to the accident. No substantial material has been extracted from the cross examination of this witness to disbelieve the contentions of the said witnesses supporting the version put forth by the appellant in this appeal.
4. Further it also reflected that during the course of the proceedings the criminal case registered against the driver of the Tractor at the time of the accident was also produced, which establishes the occurrence of the accident. Further, except for the stand now taken by the appellant they have not taken any such stand before the Criminal Court after the lodging of the criminal case. So far as the quantum part is concerned from the evidence which has come on record that the Tribunal has found the age of the deceased to be 20 years. Under these circumstances, this Court is of the opinion that the multiplier of 18 applied also seems to be in accordance with the judgment of Hon'ble Supreme Court in the case of ***"Sarla Verma & Others vs. Delhi Transport Corporation and Another" [2009 (6) SCC 121]"***
5. In view of the aforesaid facts and circumstance of the claim case, this Court does not find any strong case made by the appellant worth admitting the appeal and the same therefore being devoid of merits is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge