

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1348 of 2017**

Shri Ram General Insurance Company Limited, Headquarter- E-8, E P I
P, R I I C O, Industrial Area, Sitapura, Jaipur (Rajasthan) Through
Branch Office Nagpur Maharashtra.

---Appellant

Versus

1. Smt. Sudama Devi W/o Laxman @ Devsai Ram, Aged About 40 Years.
 2. Laxman @ Devsai S/o Silma Ram, Aged About 45 Years.
 3. Yudhishtir Yadav S/o Laxman Ram, Aged About 21 Years.
 4. Jagarnath Yadav S/o Laxman Ram Aged About 12 Years.
 5. Jeetbahan Yadav S/o Laxman Ram, Aged About 7 Years
- Respondent Nos.4 & 5 are Minor Represented Through Natural
Guardian Mother Respondent No. 1 Smt. Sudama Devi.
- All are by Caste Gayar and R/o Village Chailitangartoli, Post Office
Potrenga, Tahsil And District Jashpur, Chhattisgarh.
6. Rajkumar Uike S/o Kishore Uike, Aged About 25 Years Occupation-
Driver, R/o Village- Ramainagar, Nari Road, Paanch Pouli Thana,
Nagpur, Maharashtra.
 7. Smt. Jyoti Dilip Tembekar W/o Shri Dilip Tembekar, Village Ring Road
No. 2, Tatibandh, Raipur, Chhattisgarh.

---Respondents

For appellant/Insurance Company : Shri S.S.Rajput, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/10/2017

1. Heard on I.A.No.1.
2. There is a delay of more than 500 days in filing of the appeal. Finding
the reasons assigned in the application to be satisfactory, I.A.No.1 is allowed
and delay in filing the appeal stands condoned.
3. Present is an appeal preferred by the Insurance Company under
Section 173 of the Motor Vehicle Act challenging the award dated
05/11/2015 passed by the Additional Motor Accidents Claims Tribunal,
Jashpur (C.G.) in Motor Accident Claim Case No.17/2014.

4. Vide the said impugned award, the Tribunal in a Claim Case under Section 166 of the Motor Vehicle Act has awarded the compensation of Rs.4,40,150/- along with interest @ 9% per annum from the date of application.

5. The ground of challenge of the counsel for the Insurance Company is that, arising out of the same accident in respect of the same deceased i.e. Nakul Ram, another claim application was filed which was registered as Motor Accident Claim Case No. 32/2014 before the 2nd Motor Accident Claims Tribunal, Korba and which has been decided vide award dated 30/08/2014 where the compensation of amount of Rs.4,90,000/- has already been passed in favour of the lady who claimed herself to be the wife of the deceased – Nakul Ram. Thus, for the same accident, two Claim Cases have been filed and two awards also been passed and therefore the present award deserves to be interfered with and be set aside accordingly. He further submits that, the quantum of compensation awarded by the Tribunal is also on the higher side and there was no basis for reaching to the conclusion and prayed for setting aside of the award at this ground also.

6. On perusal of the record what is undisputed is the fact that, the Insurance Company in the instant case has not led any evidence before the Tribunal to substantiate its contention.

7. Moreover, it is also the fact that an earlier claim application already been filed and decided also was not raised in their written statement before the Tribunal.

8. If we look into the award of compensation passed, the amount seems to be reasonably fair for the reason, that the date of accident in the instant case is 16/05/2012 where the minimum income of a person would have been somewhere around Rs.4,500/- at the rate of Rs.150/- per day of a daily wage labourer which would making the yearly income at Rs.54,000/- of which if 50% is added towards future prospects and the calculation is made, the

amount of compensation would be much more than the amount awarded in the two awards which have been passed in the present case as also in the Claim Case No.32/2014. At this juncture it may not be proper, legal and justified to interfere with the impugned award.

9. In the absence of any substantive material brought before the Tribunal by the Insurance Company, the appeal of the Insurance Company thus being devoid of merit deserves to be and is accordingly dismissed.

Sumit

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