

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 897 of 2015**

Shri Ram General Insurance Com. Ltd. through Branch Office Commercial Building, Devendra Nagar Road Raipur Distt. Raipur Chhattisgarh (Insurer of wagon No. CG 04B 8257)

---- Appellant**Versus**

1. Kailash Pradhan S/o Diwan Pradhan aged about 60 years, R/o Gram Jagdishpur Thana & Tehsil Bashna, Distt. Mahasamund Chhattisgarh
2. Chandrakanti Pradhan W/o Kailash Pradhanh aged about 50 years, R/o Gram Jagdishpur Thana & Tehsil Bashna, Distt. Mahasamund Chhattisgarh
3. Ku. Himani Pradhan D/o late Rakesh Pradhan, aged about 11 years, Minor through Grand Father Kailash Pradhan R/o Gram Jagdishpur Thana & Tehsil Bashna, Distt. Mahasamund Chhattisgarh
4. Shudhanshu Pradhan S/o late Rakesh Pradhan, aged about 7 years, Minor through Grand Father Kailash Pradhan R/o Gram Jagdishpur Thana & Tehsil Bashna, Distt. Mahasamund Chhattisgarh
5. Smt. Mukta Pradhan W/o late Rakesh Pradhan aged about 30 years, R/o Gram Jagdishpur Thana & Tehsil Bashna, Distt. Mahasamund Chhattisgarh (Claimants)
6. Umesh Kumar Patel S/o late Rohit Patel R/o Gram Amalidehi, Thana Pithora Tahsil & Distt. Mahasamund Chhattisgarh (Driver and owner of Wagon R CG04 B 8257)
7. Narottam Patel S/o Sadanand Patel R/o Sanjari Para Gandhi Chauk Kahamtarai Tahsil Distt. Raipur Chhattisgarh (Insurer of vehicle Wagon R CG04 B 8257)

---- Respondents

For Appellant : Shri Deepak Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board**

19/07/2017

The present appeal under Section 173 of the Motor Vehicles Act has been preferred assailing the award dated 27.03.2015 passed by the Motor Accident Claims Tribunal, Mahasamund in Claim Case No.23 of 2013. Vide the impugned award, the Tribunal has awarded an amount of Rs.14,79,720/- to the claimants. The liability has been fastened upon the present appellant Insurance Company.

2. Since the factual matrix of the case so far as the accident, the vehicle involved in the accident and the same being insured by the present appellant are not in dispute, this Court is refraining itself from giving the factual details of the case.

3. The challenge in the present appeal is only to the quantum of the compensation awarded by the Tribunal. Counsel for the appellant does not oppose the quantification of compensation of the loss of income. The challenge is only to the quantum of the compensation awarded to each of the claimants of rupees one lakh under the heads of mental agony, loss of love and affection and loss of consortium.

4. According to the counsel for the appellant, since the number of claimants are more, the Tribunal should not have granted one lakh compensation to each of the claimants and should have given a lesser amount which would have been more reasonable. He further submits that since the Tribunal had already quantified the compensation towards loss of income which itself was more than rupees 9.5 lakhs, the amount of compensation under the head of love and affection, mental agony and loss of consortium should have been reduced by the Tribunal. Hence, the impugned award should be modified suitably.

5. What is striking the conscience of this Court is the fact that the claimants 3 & 4 are the minor children of the deceased Rakesh Pradhan and claimant

no.5 is the widow of the deceased who is just around 30 years. If the claimants 3 & 4 have lost their father and claimant no.5 has lost her husband at so young age, the amount of compensation whatsoever be it cannot fill the gap which has arisen because of the loss of the bread earner in the family, the father and the husband. It is also equally great loss for the parents to lose their son at the age of 33 years, when the parents are alive. This is also a great blow in their life. If these factors are taken into consideration coupled with the judicial pronouncement of the Hon'ble Supreme Court in the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54** it cannot be said that the Tribunal has committed an error while granting the compensation for love and affection, mental agony and for loss of consortium quantifying it at Rs.1,00,000/- for each of the claimants.

6. Thus, the appeal of the Insurance Company being devoid of merits, the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE