

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 601 of 2012

The National Insurance Company Limited, Branch Office No.1, Naveen Bazar, Phool Chowk, G.E.Road, Raipur, District Raipur (C.G.) Through Authorized Signatory, For National Insurance Company Limited, Division Office Priya Darshani Nagar, Bilaspur (C.G.).

---Appellant

Versus

1. Ms.Nirmala Bai Wd/o Late Pitambar Satnami, aged 53 years, R/o At Post Kunda, Tehsil Kunda, Tehsil Pandariya, District Kabirdham/Kavardha (C.G.) (Claimant).
2. Itram alias Geeta Ram Satnami S/o Peelu Ram Satnami, aged 53 years, R/o Village Chapreed, P.S.Aarang, District Raipur (C.G.) (Driver).
3. Mohan Das Puraina S/o Sukharu Ram Puraina, aged 59 years, Caste Satnami, R/o village Nayapara, P.S.Tumgaon, District Raipur (C.G.) (Registered owner of offending Tractor Engine No. CG-06-A-3058 & Trolley No. CG-06-A-3059).

---Respondents

For appellant/Insurance Company	:	Shri B.N.Nande, Advocate.
For respondent No.1	:	Shri Harshal Chouhan, Advocate.
For respondent No.3	:	Shri Samir Singh, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/02/2018

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 19/03/2012 passed by the learned Motor Accident Claims Tribunal, Kabeerdham (Kavardha) (C.G.) in Motor Accident Claim Case No. 08/2009.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.2,82,600/- with interest @ 9% per annum from the date of application.
3. The counsel for the appellant/Insurance Company submits that, the compensation awarded is on the higher side as the multiplier applied is not in accordance with the judgment passed by the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 {6} SCC 121]** so also the compensation under the conventional head is also on the higher side. Challenging the liability part he further submits that, the involvement of the offending vehicle in the instant case itself is doubted. He further submits that, the interest awarded by the Tribunal is also on the higher side and thus prayed for suitable modification of the award.
4. However, perusal of record would show that, the Insurance Company as such has not led any evidence before the Court below to substantiate their contentions. In the absence of any cogent evidence on part of the Insurance Company, the challenge to the liability part stands negated.
5. So far as the quantum of compensation and the interest part awarded is concerned, this Court considering the age of the deceased as also the calculation which has been made does not seem to be either erroneous or contrary to the evidence which have come on record.
6. Further, an intimation before this Court was brought on record by the respondents that the respondent No.1 – the sole claimant had pending the

appeal before this Court expired and the Insurance Company on the previous date were granted to take steps for substitution. Having not done so, the appeal deserves to be rejected on this ground also.

7. Therefore this Court does not find any strong case made out by the counsel for the Insurance Company calling for an interference with the impugned award.

8. The appeal thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit