

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 74 of 2018**

Prakash Mirdha, Aged about 36 years, S/o. Shri Parimal Mirdha, Occupation Private Teacher, R/o. Village Tameshwarpur, Police Station Ramanujganj, Tahsil Paal, District Balrampur Chhattisgarh (Owner & Driver)

---Appellant**Versus**

1. Smt. Anita Viswas, Aged about 47 years, Wd/o. Late Fanindra Viswas,
2. Devvrat Viswas, Aged about 28 years, S/o. Late Fanindra Viswas,
3. Dinesh Viswas, Aged about 26 years, S/o. Late Fanindra Viswas,
4. Dayal Viswas, Aged about 18 years, S/o. Late Fanindra Viswas,

All are R/o. Village Tameshwar Nagar, Police Station Ramanujganj, Tahsil Paal, District Balrampur- Ramanujganj, Chhattisgarh (Claimants)

----Respondents

For Appellant : Mr. Sanjay Kumar Dewangan, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15/01/2018**

1. Present is an appeal by the Owner under Section 173 of the Motor Vehicles Act assailing the award dated 08.11.2017, passed by the 2nd Additional Motor Accident Claims Tribunal, Ramanujganj, District Surguja, Chhattisgarh, in Claim Case No. 34/2016. Vide the impugned award, the Tribunal in a death case has awarded a compensation of Rs.10,58,000/- with interest @ 6% per annum from the date of application.
2. The fact of the case is that the present appellant is the Owner of the motorcycle bearing registration No. CG/15/CV/1349 and that on the date of accident he was driving. It is said that while he was driving, he had dashed upon one Fanindra Viswas, who as a result of the accident received grievous injuries and later succumbed.

3. A perusal of the award would show that the present appellant was prosecuted in a Criminal Case No. 48/2016 for the offence under Section 304-A of Indian Penal Code.
4. The contentions of the counsel for the appellant is that the present appellant is not responsible for the accident and that the accident arose because of the negligence of the deceased himself, who had appropriately tried to cross the road, when the accident occurred. He further submits that the atleast there has to be an element of contributory negligence attributed against the deceased and the award should have been suitably apportioned.
5. A perusal of the record would show that in the cross-examination, the present appellant has admitted the fact that he was convicted for the offence under Section 304-A of the Indian Penal Code for the accident that took place on 27.05.2016. Further, from the perusal of record it also reveals that the appellant did not have a valid license to drive the motorcycle at the time of accident, neither was the vehicle insured during the relevant period.
6. Given the facts and circumstances of the case and the evidence which have come on record, this Court does not find any strong case made out calling for an interference with the impugned award.
7. The appeal thus fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge