

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 1043 of 2011

1. Vijeet Banerjee S/o B.P.Banerjee, aged about 60 years.
2. Paumi Banerjee W/o Vijeet Banerjee, aged about 51 years.
3. Sudeet Banerjee S/o Vijeet Banerjee, aged about 22 years.

All are R/o Bankimongra, Katghora (C.G.)

(L.Rs. of deceased Suparna Banerjee, driving vehicle No. MP-57-B-3084).

---Appellants

Versus

1. Nitish Kumar Shrivastava S/o S.K.Shrivastava, aged about 19 years, R/o Qtr.No.O.B. 3/5 C.G.E.B.Colony, Korba (East).
2. Lachchan S/o Sundar Lal, aged about 50 years, R/o Qtr.No.43/5, Balgi Colony, Korba. (Owner of the vehicle No. M.P.57/B-3084).
3. The United Insurance Company Limited, Through - Branch Manager, Office at T.P.Nagar, Korba.
4. Smt.Jyotsana Shrivastava W/o S.K.Shrivastava (Sushil Kumar Shrivastava), aged about 55 years.
5. S.K.Shrivastava (Sushil Kumar Shrivastava) S/o K.B.Shrivastava, aged about 60 years.
Both are R/o Qtr.No. O.B.24, C.S.E.B. Korba East, Korba (C.G.).
(L.Rs. of deceased Abhishek, driving vehicle No. MP-26-GA-5627).
6. S.K.Shrivastava (Shiv Kumar Shrivastava) S/o Late M.L.Shrivastava, aged about 56 years, R/o Qtr.No.O.B.3/5, C.S.E.B.Colony, Korba East.
7. The Oriental Insurance Company, Through Branch Manger, Office at T.P.Nagar, Korba (C.G.).

---Respondents

For appellants	:	Shri Amiyakant Tiwari, Advocate.
For respondent No.3/United Insurance Co.Ltd.	:	Ms.Chitra Shrivastava, Advocate.
For respondent No.7/Oriental Insurance Co.Ltd.	:	Shri Pallav Mishra on behalf of Shri R. N.Pusty, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

31/01/2018

1. Present is an owner's appeal filed under Section 173 of the Motor Vehicles Act assailing the award dated 12/10/2010 passed by the learned Additional Motor Accident Claims Tribunal, Katghora, District Korba (C.G.) in Motor Accident Claim Case No. 372/2007.
2. The facts of the case in brief is that, on 05/11/2000, the deceased-Abhishek Shrivastava while driving the Motorcycle-Kinetic Luna bearing registration No. MP-26-GA-5627 dashed with another Motorcycle coming from the opposite direction bearing registration No.MP-57-B-3084. As a result of the said accident, the deceased-Abhishek Shrivastava died on the spot whereas the pillion rider-Nitish Kumar Shrivastava suffered injuries. The said Nitish Kumar Shrivastava filed the claim application seeking compensation which stood allowed vide the impugned award dated 12/10/2010 and it was ordered that the claimants will be entitled for a compensation of Rs.61,000/- after deducting 50% of the total compensation assessed at Rs.1,22,000/- with interest @ 6% per annum and penal interest of 9% in case the amount is not deposited promptly.
3. The counsel for the appellants submits that, the finding of contributory negligence assessed by the Tribunal is bad in law and the same deserves to be set aside. Infact it ought to have been held that the accident did occurred at the behest of the deceased-Abhishek Shrivastava and not from the vehicle belonging to the present appellants driven by the deceased-Suparna Banerjee.

4. Having heard the contentions put forth by the counsel for the appellants and on perusal of record, this Court does not find any strong case made out by the counsel for the appellants to hold that the finding of contributory negligence by the Tribunal to be either erroneous or perverse and therefore the same deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit