

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 1139 of 2012

Laxmi Nidhi Patel S/o Sunder Sai Patel, aged about 31 years, R/o village Gejamuda, Police Station Kotra Road, Tehsil and District Raigarh (C.G.).

---Appellant

Versus

1. Basanti Bai Gabel W/o Late Sahettar Ram Gabel, aged about 50 years.
2. Lakhan Lal Gabel S/o Late Sahettar Ram Gabel, aged about 28 years.
3. Chandra Kumar Gabel S/o Late Sahettar Ram Gabel, aged about 25 years.

All are R/o Sakti, Ward No.14, Officers Colony, Sakti, Police Station & Tehsil Sakti, District Janjgir Champa (C.G.).

---Respondents

For appellant	:	Shri Surfaraj Khan, Advocate.
For respondent No. 1	:	Ms.Beenu Sharma on behalf of Ms.Deepali Pandey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/02/2018

1. Present is an appeal filed by the owner under Section 173 of the Motor Vehicles Act assailing the award dated 27/09/2012 passed by the learned Additional Motor Accident Claims Tribunal, Sakti, District Janjgir-Champa (C.G.) in Motor Accident Claim Case No. 18/2011.
2. Vide the impugned award, after assessing contributory negligence of 50:50 between the owners of the two vehicles involved in the accident, the Tribunal has awarded a compensation of Rs.4,25,320/- with interest @ 7% per annum from the date of application.

3. Since, there was no insurance for the offending vehicle, the liability of payment of compensation has been fastened upon the present appellant/owner.

4. The facts of the case in brief is that, the deceased – Sahettar Ram Gabel while traveling on a Motorcycle bearing registration No. CG-13-K-2010 met with an accident when colliding with another Motorcycle owned and driven by the present appellant bearing registration No. CG-13-B-6895. The Motorcycle of the present appellant was not insured. Since, there was a head on collision, the Tribunal has assessed the contributory negligence towards both the drivers of the Motorcycles and has assessed the ratio of contributory negligence at 50:50. Though, the accident took place on 21/07/2010, the deceased died only on 24/10/2010 i.e. after about 3 months time from the date of accident.

5. The solitary ground of challenge by the counsel for the appellant in the present appeal is that, the death of the deceased was not on account of the injuries that he sustained in the accident that took place on 21/07/2010. It was further contended by the counsel for the appellant that, there was no strong cogent evidence led by the claimants to establish direct nexus between the accidental injuries and the cause of death. He further submits that, the fact that the deceased died a natural death also stands established from the fact that, after his treatment, he stood discharged from hospital at Raipur on 18/10/2010 and thus prayed for setting aside of the award.

6. Perusal of record would show that, as a result of the accident, the ribs of the deceased had got fractured, so also his left cervical and radius bones

has also got fractured. Similarly, the deceased also had received fracture in his temporo parietal bone. On the date of the accident, he was admitted to the hospital at Raigarh and because of the gravity and the grievousness of the injuries, he was shifted to Ramkrishna Hospital, Raipur where he has undergone treatment for a period of almost three months when he was discharged only on 18/10/2010. After his discharge on 18/10/2010, the deceased died on 24/10/2010. The date of death and the date of discharge was too short a period.

7. Considering the age of the deceased to be 65 years at the time of accident and the aforementioned injuries and further the fact that, he had been hospitalized for a period of about 3 months and he died immediately after his discharge from the hospital, this Court has no hesitation in concluding that, there appears to be a direct connection between the accidental injuries and the cause of death. Even though, the postmortem might not have been conducted, but the gravity of injuries stood established from the findings of the Tribunal in paragraph-14 and also the fact that, he was in continuous treatment for a period of about 3 months at the Raipur hospital.

8. Under the circumstances, this Court does not find any strong case made out by the counsel for the appellant calling for an interference with the impugned award.

9. The appeal thus fails and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE