

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 843 of 2011**

Pavan Kumar Goyal S/o Jai Prakash Goyal, Aged about 23 years,
R/o Sakti Ward No. 5, Tehsil Sakti District Janjgir Champa
Chhattisgarh

----Appellant**Versus**

1. Smt. Savitri Devi W/o Dindayal, Aged about 66 years, R./o Thana Road, Raigarh, Chhattisgarh
2. Dindayal Khirwal S/o Ganpat Rai, Aged about 68 years, R./o Thana Road, Raigarh, Chhattisgarh
3. Ashok Kumar Chouhan S/o Parasram Chouhan, Aged about 38 years, R/o Gandapara, Tehsil Sakti, District Janjgir Champa, Chhattisgarh
4. The New India Insurance Company, Through: Manager, Sattigudi Chowk, Raigarh, Chhattisgarh

----Respondents

For Appellant	:	Mr. Waqar Nayyar, Advocate on behalf of Mr. Mateen Siddiqui, Advocate
For Respondent No.1 & 2	:	Mr. Amit Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/01/2018**

1. Present is an appeal by the Owner under Section 173 of the Motor Vehicles Act assailing the award dated 13.05.2011, passed by the 1st Additional Motor Accident Claims Tribunal, Raigarh, Chhattisgarh, in Claim Case No. 2/2011. Vide the impugned award, the Tribunal in a death case under Section 166 of Motor Vehicles Act has awarded a compensation of Rs.1,00,000/- with interest @ 6% per annum.
2. Since the offending vehicle was not insured, the liability of payment of compensation has been fastened upon the present appellant-Owner of the Truck bearing registration No. CG/12/ZC/1392.
3. The contention of the counsel for the appellant is that there is an element of contributory negligence on the part of the deceased for

the accident to occur and therefore the Tribunal should have suitably apportioned the contributory negligence and should have reduced the compensation payable to the Claimants. He further submits that the Tribunal has also assessed the compensation on higher side and the same also deserves to be suitably reduced.

4. The contention of the counsel for the appellant, so far as the contributory negligence is concerned, it is alleged that the deceased in the instant case did not have a valid driving license at the time of accident and as such the contributory negligence stands established.
5. However, perusal of record would show that there is no such evidence produced by the appellant before the Tribunal with which there it could be said that the deceased was not having a license. On the contrary in the cross-objection of the Claimants there is a categorical denial on the part of the Claimants on the question of the deceased not having a valid license. In the absence of sufficient evidence produced by the appellant, the contentions cannot be accepted.
6. So far as quantum of compensation is concerned, this Court does not find the award to be either unreasonable or on higher side or excessive in any manner. This Court also does not find the award calling for an interference in any manner. Thus, this Court is of the opinion that the appeal of the appellant being totally devoid of merits deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge