

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**Misc. Appeal (C) No. 541 of 2011**

Mewalal Shiv Kumar Jaiswal, R/o near Narendra Talkies, Jagdalpur,
Distt. Bastar (CG).

---- Appellant**Versus**

1. Smt. Jagri W/o late Chaitu, aged about 33 years
2. Ku. Munni D/o late Chaitu, aged about 18 years
3. Urmila D/o late Chaitu, aged about 16 years
4. Pramila D/o late Chaitu, aged about 14 years
5. Sukhnath S/o late Chaitu, aged about 12 years
6. Janki D/o late Chaitu, aged about 10 years
7. Guddu S/o late Chaitu, aged about 2 years

Respondents 3 to 7 are minor through natural guardian mother Smt. Jagri, all R/o village Dhuragaon, Dengpara, PS Lohandiguda, District Bastar (CG)

8. Abdul Karim (wrongly mentioned Karib) S/o Abdul Rahim R/o 9. Kewatpara, Back side of Anupama Talkies, Jagdalpur, Distt. Bastar (CG).
9. The Chief Medical and Health Officer, Jagdalpur, Distt. Bastar (CG).
10. The Director, Health Services, Chhattisgarh Raipur (CG).
11. State of Chhattisgarh through Collector, Bastar at Jagdalpur (CG).

---- Respondents

For Appellant-Owner : Shri Subhash Yadav, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****08.02.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the owner against the award dated 21.01.2011 passed by the IIIrd Additional Motor Accident Claims Tribunal Bastar at

Jagdalpur, in Claim Case No. 247 of 2009. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.3,34,560/- along with interest @ 6 percent per annum from the date of application.

2. Learned counsel for the appellant-owner submits that the Tribunal has wrongly fastened the liability upon the present appellant inasmuch as he is not the actual owner of the vehicle. He submits that it is a case where the vehicle involved in the accident i.e. Jeep bearing Registration No.MP-02-1814 (Re-numbered as CG-02-J-2226) was originally owned by the State Govt. which was subsequently put to auction and in the auction proceeding it was purchased by one Abdul Shamim and that he has also led evidence in this regard to establish that it was Abdul Shamim who was the actual owner and he was neither directly or indirectly involved in purchase or use of the said vehicle. He referred to Annexure A/2 enclosed along with memo of appeal which is also exhibited as Annexure-C-32 before the Tribunal to show that it is infact a case where the documents which are relied upon by the Tribunal were not one belonging to the appellant, but was prepared in the name of appellant by some unknown person. He is not aware of such papers being filed before the State authorities during auction proceedings.
3. A perusal of record would show that there were two documents produced before the Director of Health Services during the course of auction. The first document was Annexure C-32 which was filed by the appellant Mewalal Shiv Kumar Jaiswal wherein he has deposited

Rs.25,000/- by way of Bank Draft for the purchase of four vehicles which included the vehicle involved in the present case i.e. MP-02-1814 (Re-numbered as CG-02-J-2226). It is also reflected from the proceedings that document Annexure C-32 is a document prepared by the present appellant for the purpose of taking possession of the said vehicle after the auction was complete.

4. Given the said evidence from the Heath Department, this court is of the opinion that there was sufficient material and evidence during the course of hearing with which it could be safely concluded that it was the present appellant Mewalal Shiv Kumar Jaiswal who was the actual owner of the auctioned jeep. Thus, the contention put forth by the appellant-owner does not have sufficient force. Neither is there any substantive cogent evidence on record with which the findings of the Tribunal has to be disbelieved.
5. Thus, the appeal being devoid of merit is liable to be and is hereby rejected.

**Sd/-
(P. Sam Koshy)
Judge**