

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 104 of 2018**

IFFCO Tokiyo General Insurance Company Limited 2nd Floor, Shop No. 205, M.M. Silver Plaza, In Front Of Udyog Bhawan, Near Mining Office, Ring Road No.1, Raipur, District Raipur (Chhattisgarh),

---- Appellant**Versus**

1. Ajay Singh S/o Sunder Singh Aged About 45 Years
2. Mukesh Jain S/o Ajay Singh Aged About 17 Years
3. Rakesh Singh S/o Ajay Singh Aged About 14 Years
4. Lokesh Singh S/o Ajay Singh Aged About 11 Years

Respondent No. 2 to 4 are Minors Through Natural Guardian Father Ajay Singh, R/o Village Bhatli, Ps Sariya, Tahsil Baramkela, Distt. Raigarh (Chhattisgarh) (Claimant)

5. Narendra Uraon S/o Visun Ram Uraon R/o Village Gulmul, District Jashpur Nagar, Presently Residing At Essa Nagar, Raigarh, Tahsil And District Raigarh (Chhattisgarh) (Driver)
6. Praveen Verma S/o Jugal Kishore Verma R/o. House No. C-30, Vrindawan Colony, Jindal Road, Raigarh (Chhattisgarh) (Owner)

----Respondents

For Appellant	:	Mr. P.R. Patankar, Advocate
For Respondents No.1 to 4	:	Mr. Manoj Kumar Jaiswal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18/01/2018**

1. Heard on I.A. No.1, which is an application for condonation of delay.
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 73 days in filing the appeal stands condoned.
2. Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 31.07.2017, passed by the 1st Additional Motor Accident Claims Tribunal, Raigarh, Chhattisgarh, in Motor Accident Claim Case No. 115/2015.

3. Vide the impugned award, the Tribunal in a death case has awarded a compensation of Rs.8,80,000/- with interest @9% per annum from the date of application.
4. The challenge by the Insurance Company to the award is that the Claimants have not substantively proved the case, so far as the death of the deceased Awadhesh Kumar Singh to have occurred because of the use of the motorcycle.
5. The contention of the counsel for the appellant is that there is a strong case of the deceased having been killed by the Driver i.e. the respondent no.5 Narendra Uraon.
6. The second ground of challenge was the fact that the Claimants herein are not direct dependents of the deceased and for that reason also the claim was not sustainable. According to the counsel for the appellant, the Claimant no.1 was the elder brother of the deceased and that the Claimants No. 2 to 4 are the nephew of the deceased and as such they are also not entitled for any compensation since they are not direct dependents upon the deceased.
7. Perusal of the record would shows that the Insurance Company has not led any evidence whatsoever in support of its contentions.
8. In the absence of any evidence led by the Insurance Company, the view taken by the Tribunal cannot be found fault with. Neither can the award be held to be either erroneous or contrary to the evidence.
9. The appeal thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge