

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 213 of 2018**

Branch Manager The New India Assurance Company Limited Madina
Building Katchheri Chowk Raipur, District- Raipur, Chhattisgarh.

---- Appellant**Versus**

1. Bhagmati Bai W/o W/o Jhalar Ram Aged About 30 Years R/o Lanja Police Station And Tahsil Simga, District- Baloda Bazar-Bhatapara, Chhattisgarh.
2. Harakhnath Yadav (H. N. Yadav) S/o S/o Dashrath Yadav R/o Police Station Karanda, , District- Ghajipur, (U. P.) Presently R/o B-342 Adarsh Nagar, Kusmunda, Korba, District- Korba, Chhattisgarh.
3. Sanjay Pandey S/o S/o Late Shri R. A. Pandey, R/o Pandey Road Lines, B-342, Adarsh Nagar, Kusmunda, Korba, Police Station and Tahsil Korba, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Qamrul Aziz, Advocate.
---------------	---	-----------------------------

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment on Board****02.02.2018**

1. For the reasons assigned in the application and finding them to be satisfactory, IA No.1, application seeking condonation of 5 days delay in filing the appeal stands allowed and accordingly delay is condoned.
2. The present is an appeal by the insurance company assailing the award dated 12.10.2017 passed by the Additional Motor Accident Claims Tribunal, Bhatapara (CG) in Claim Case No.03/2013. Vide the impugned award the Tribunal in a death case of minor girl aged around 12 years, has awarded compensation of Rs.6,75,000/- along with interest @ 9 percent per annum from the date of application.
3. The appellant assails the award on the ground that the driver of offending vehicle did not have a valid license on the date of accident.

It was the contention of the appellant that the driver's license had got expired on 12.03.2011 and thereafter it was not renewed. Further, the quantum of compensation awarded is also on the higher side when compared to the ratio laid down by the Supreme Court in case of Kishan Gopal & Another Vs. Lala and Others, 2014(1) SCC 244.

4. However, a perusal of records would show that the owner of the vehicle has produced before the Tribunal Ex. D/1 which was driving license issued from the State of Uttar Pradesh and where the validity of the license was till 21.04.2017. Further, it also reflects that the insurance company has not got this document Ex. D/1 verified from the concerned RTO to ascertain whether it is genuine or fake. Likewise, it is also a case where the insurance company has not examined its investigator who had been sent to investigate the license of the driver of the offending vehicle. In the absence of any cogent evidence led by the insurance company, it cannot be presumed that the insurance company has discharged its burden by giving evidence of only Administrative Officer of the company.
5. So far as quantum of compensation is concerned, true it is that in the case of Kishan Gopal (Supra) the Supreme Court has assessed the compensation at Rs.5,00,000/-, however, if we look into the date of death, in the present case it is of the year, 2012 whereas, the date of death in the case of Kishan Gopal was 19.07.1992 i.e. almost 20 years ago. Thus, for this gap of about 20 years, if the Tribunal has awarded a compensation of more than Rs.1,75,000/- than what has been awarded in case of Kishan Gopal, the same cannot be said to

be either excessive or on the higher side.

6. The appeal thus being devoid of merit deserves to be and is accordingly rejected.

Sd/-
(P.Sam Koshy)
Judge

inder