

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 175 of 2018

The New India Assurance Company Ltd, Through Its Divisional Manager, Jail Road, Kachhari Chowk Raipur , Raipur (Chhattisgarh).

---Appellant

Versus

1. Smt. Gayatri Pal W/o Pannalal Pal, Aged About 23 Years.
2. Sadhna Pal D/o Pannalal Pal, Aged About 10 Years.
3. Temashwari Pal D/o Pannalal Pal, Aged About 8 Years.

Respondents No. 2 & 3 are minor represented through Natural guardian mother Smt. Gayatri Pal.

All are R/o village Chorbhatti, Post Bagoud, Thana & Tahsil Kurud, District Dhamtari (C.G.).

4. Santosh Kumar Sahu S/o Manharan Sahu, Aged About 35 Years, R/o Village Rewa, Thana - Mandir Hasoud, Tahsil - Aarang, District Raipur (Chhattisgarh).
 5. Ajay Gupta S/o Late Jugal Kishore Aged About 42 Years, R/o Ward No.-17, Panjabi Para, Mahasamund, District Mahasamund.
 6. Smt. Sukhiya Paul W/o Heera Paul, Aged About 58 Years.
 7. Heeralal Paul S/o Late Sunhar Paul, Aged About 61 Years.
- Both are R/o Village Chorbhatti, Post Bagoud, Thana And Tahsil Kurud, Distt. Dhamtari (Chhattisgarh).

---Respondents

For appellant/Insurance Company : Ms.Chitra Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/01/2018

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 28/10/2017 passed by the learned 4th Additional Tribunal to the 1st Additional Motor Accident Claims Tribunal in Motor Accident Claim Case No.538/2015.

2. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.10,02,400/- with interest @ 7.5% per annum from the date of application.
3. There are two grounds raised by the counsel for the appellant/Insurance Company while assailing the impugned award. First is that, the driver of the Motorcycle involved in the accident did not have a valid license and as such the Tribunal should have assessed the contributory negligence. The second ground raised was that, the quantum of compensation awarded under the conventional head is much more than what has been envisaged by the larger Bench decision of the Hon'ble Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** (SLP Civil No. 25590/2014, decided on 31/10/2017).
4. Perusal of the record would reveal that, the Insurance Company in the instant case has not led any evidence to substantiate any of their contentions as is reflected from paragraph 11 of the impugned award. So far as the quantum part is concerned, the present award under challenge is an award which was passed much before the judgment of Supreme Court in the case of Pranay Sethi (Supra) was passed.
5. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the counsel for the appellant calling for an interference with the impugned award.
6. The appeal thus fails deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
JUDGE