

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.434 of 2018**

1. Pramod Kumar S/o Shri Ganga Prasad Sahu Aged About 30 Years R/o Village Ranwa, Tahsil And District Dhamtari, Chhattisgarh (Driver Of Offending Vehicle Sumo No. CG 05/C/8550)
2. Devendra Kumar S/o Shri Ganga Prasad Sahu Aged About 28 Years R/o Village Ranwa, Tahsil And District Dhamtari, Chhattisgarh (Owner Of Sumo No. CG 05/C/8550) (Defendants)

---- Appellants**Versus**

1. Smt. Chaiti Bai Wd/o Late Khilawan Dheewar Aged About 52 Years R/o Village Bhedsar, Tahsil Kurud, District Dhamtari, Chhattisgarh
2. Sanjay Kumar S/o Late Khilawan Dheewar Aged About 38 Years R/o Village Bhedsar, Tahsil Kurud, District Dhamtari, Chhattisgarh
3. Manoj Kumar S/o Late Khilawan Dheewar Aged About 35 Years R/o Village Bhedsar, Tahsil Kurud, District Dhamtari, Chhattisgarh (Claimants)

---- Respondents

For Appellants	: Shri Sanjay Dewangan, Advocate
For respondents	: None present, though served

Hon'ble Shri Justice Ram Prasanna Sharma**Order****06.8.2018.**

1. This appeal is preferred against award dated 25.11.2017 passed by Additional Motor Accidents Claims Tribunal, Dhamtari in Claim Case No.168/2016 wherein the said Court awarded a sum of Rs.4,04,000/- on account of death of one Khilawan Ram in a motor accident dated 27.6.2016.
2. As per the evidence adduced before the Tribunal, appellant No.1 is driver of the offending vehicle SUMO No. CG 05 C 8550 and appellant No.2 is the owner of the said vehicle. It is

established by the evidence before the Tribunal that by driving said offending vehicle negligently, appellant No.1 dashed the Luna of deceased Khilawan Ram resulting into his death.

3. Learned counsel for the appellants submits that the incident occurred due to lapse on the part of the deceased, therefore, the appellants are not liable to pay the compensation.

4. Arguments advanced on behalf of the appellants is contrary to the evidence of appellant No.1 Pramod Kumar. Pramod Kumar appeared before the Tribunal and as per his statement body of unknown person was lying near the rice mill of Village Bhedsar. In his deposition he did not state that the deceased was negligent in driving his vehicle Luna, therefore, arguments advanced on this count is without substance.

5. Learned counsel for the appellants' further submission is that the Tribunal wrongly assessed the income of the deceased and the amount awarded by the Tribunal is on higher side. This argument is also without substance. The trial Court assessed the income of the deceased as Rs.150/- per day. Date of incident is 27.6.2016, the amount assessed by the Tribunal was less than the minimum wages prevailing at the time of the incident. So it cannot be said that the Tribunal assessed the income of the deceased on higher side. The total amount awarded to a death case is Rs.4,04,000/- which is based on less than minimum wages and the same cannot be termed to be on higher side.

6. As the appeal is without substance, the same is dismissed at the motion stage itself.

Sd/-
(Ram Prasanna Sharma)
JUDGE