

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1180 of 2012**

1. Ravindra Ram S/o Ram Say Aged About 26 Years R/o Village Charaidand, Post And P.S. Kunkuri, Dist. Jashpur C.G.
2. Bhanupratap S/o Amar Prasad Aged About 40 Years R/o 1-E, Krishna Apartment, Radium Road, Ranchi, P.O. And P.S. Ranchi, Dist. Ranchi Jharkhand

---- Appellants**Versus**

1. Anil Xaxa S/o late Shri Albis Xaxa Aged About 35 Years
 2. Ajay Xaxa S/o late Shri Albis Xaxa Aged About 26 Years
- Both R/o Village Kukurbhuka, Post and P.S. Bagbahar, Tahsil Patthalgaon, Dist. Jashpur C.G.

---- Respondents

For Appellants : Ms. Neha Verma, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****16.02.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the driver and owner against the award dated 29.09.2012 passed by the Additional Motor Accident Claims Tribunal, Kunkuri, Distt. Jashpur (in short, the Tribunal) in Claim Case No.32/2010. Vide the impugned award, the Tribunal has awarded compensation of Rs.1,23,000/- along with interest @ 6 percent per annum from the date of application.
2. While passing the award, the liability of payment of compensation has been fastened upon the appellants-driver and owner.
3. The challenge to the award is on the ground that the Tribunal has not properly appreciated the fact that the accident infact did not occur from the vehicle belonging to the appellants. The appellant No.1-

driver was prosecuted for the criminal case for the offence under Sections 279 and 304-A IPC, but the Judicial Magistrate First Class has vide judgment dated 30.06.2012 acquitted the said appellant No.1-driver. She further submits that since the driver has been acquitted, it is difficult to hold that her vehicle was involved in the accident resulting into death of the deceased. Therefore, the impugned award deserves to be set aside.

4. Counsel for the appellant further submits that no eyewitness was examined before the Tribunal also with which it can be established that it was the vehicle belonging to the appellants which was involved in the accident.
5. The contention of the appellants is not sustainable for the simple reason that the standard of proof required for establishing an offence before the criminal court is entirely different i.e. there shall be an evidence to prove the charges beyond all reasonable doubts produced before the criminal court whereas, so far as claim application under MV Act is concerned, it is preponderance of probability which is required while deciding the claim application.
6. A perusal of record would show that the claimant had examined one witness Satyanarayan, AW-2, who has proved before the Tribunal in respect of the accident as also a TATA Indica Car involved in the accident which corroborates the other evidence and documents which has come on record of criminal case and FIR having been lodged on the same day against the same person. Further, the police authorities have seized the vehicle also on the same day. Under the

said circumstances, it is difficult to hold that the claimant has not proved or established their case before the Tribunal.

7. This court thus does not find any strong case made out by the appellants to interfere with the impugned award. The appeal being devoid of merit is liable to be and is hereby rejected.

Sd/-

(P.Sam Koshy)
Judge

inder