

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 840 of 2017**

1. Ind Kunwar W/o Late Teej Ram, aged about 46 years, R/o Village Jenjra (Bhalubhadra), P.S. and Tahsil Katghora, District Korba, Chhattisgarh
2. Ku. Kavita D/o Late Teej Ram, aged about 26 years, R/o Village Jenjra (Bhalubhadra), P.S. and Tahsil Katghora, District Korba, Chhattisgarh
3. Mahipal S/o Late Teej Ram, aged about 19 years, R/o Village Jenjra (Bhalubhadra), P.S. and Tahsil Katghora, District Korba, Chhattisgarh
4. Rampal S/o Late Teej Ram, aged about 15 years, Minor Through His Brother Mahipal, S/o Late Teej Tam, aged about 19 Years, R/o Village Jenjra (Bhalubhadra), P.S. and Tahsil Katghora, District Korba, Chhattisgarh
5. Smt. Sunita D/o Late Teej Ram, aged about 29 years, W/o Anil Kumar, R/o Village Dadar Para, Bhairotal, Korba, District Korba, Chhattisgarh
6. Smt. Anita D/o Late Teej Ram, W/o Sawar Singh, R/o Village Garh (Uroda), P.S. Katghora, District Korba, Chhattisgarh

---- Appellants**Versus**

1. Ramesh Kumar S/o Lauha Ram, Caste Satnami, R/o Ward No.10, Gandhi Nagar, Katghora, District Korba, Chhattisgarh
2. Sunil Kumar Agrawal S/o Vishambhar Dayal Agrawal, R/o Reshma Vastralaya, Gevra Basti, P.S. Kusmunda, Tahsil Katghora, District Korba, Chhattisgarh
3. Iffco Tokyo General Insurance Company Limited, through its Branch Manager, Iffco Tokyo General Insurance Co. Ltd., branch office at Lalganga Shopping Mall, IIIrd Floor, Plot No. 345-347, G. E. Road, Raipur, Chhattisgarh

---- Respondents

For Appellants	:	Shri Ravindra Agrawal, Advocate
For Respondents 1 & 2	:	Shri S. R. J. Jaiswal, Advocate
For Respondent no. 3	:	Shri P. R. Patankar along with Shri Utsav Mahiswar, Advocates

Hon'ble Shri Justice P. Sam Koshy
Order On Board

02/01/2018

Present is an appeal under Section 173 of the Motor Vehicles Act by the claimants assailing the award dated 31.03.2017 passed by the Additional Motor Accident Claims Tribunal, Katghora (CG) in Claim Case No. 112 of 2007. Vide the impugned award, the Tribunal has rejected the claim application of the claimants leading to the filing of the present appeal.

2. Contention of the counsel for the appellants is that the rejection of the claim application has been only on two grounds. First ground was that the claimants have not been able to produce sufficient evidence before the Tribunal to substantiate the income of the deceased and second ground was that the claimants have also not produced any document to show that they were in fact the legal representatives of the deceased.

3. Counsel for the respondents oppose the appeal on the ground that the impugned order seems to be just and reasonable based upon the evidence which has come on record and there is no scope of interference with the same.

4. At this juncture, it is noteworthy to take note of the documents filed along with the application under Order 41 Rule 27 of CPC by the appellants bringing on record the copy of Adhar Card of each of the claimants which would show that they are in fact the legal representatives of the deceased in the instant case.

5. So far as the income of the deceased is concerned, contention of the counsel for the appellants is that the deceased was working as a mason, as such, he would not have any substantive proof to establish the income except for the oral submission, the Tribunal ought to have taken the minimum wages

that were prevalent at the time of accident payable to a mason for the purpose of computing compensation.

6. Having considered the contentions of the counsel for the parties, this Court is of the opinion that the claim application under the Motor Vehicles Act is a liberal piece of legislation which should not have been rejected on hyper technical ground of not having sufficient proof of income. That even if there is no proof of income, once when the accident and the death of the deceased from the accident are not in dispute, the Tribunal for all practical purposes should have taken into account the notional income or at least, the minimum wages which were prevalent at the relevant time for the purpose of computation of compensation. Likewise, the Tribunal should not have doubted the claimants being the legal heirs of the deceased unless there is a specific pleading and evidence to the effect showing that the deceased was a bachelor or that there were other family members other than the claimants as his legal representatives. Only because the documents to prove the claimants being the legal heirs not being produced should not have been a basis for rejection of the claim application.

7. Thus, this Court finds that the finding of the Tribunal while rejecting the claim application to be too harsh and hyper technical particularly when the claim application is for compensation on account of death of the deceased in a road accident that took place on 10.05.2007.

8. Given the facts and circumstances of the case, this Court is of the opinion that it is a fit case where the matter deserves to be remitted back for fresh adjudication of the claim application. As a result, the appeal is allowed. The impugned order stands quashed and the matter is remitted back to the Tribunal for fresh adjudication. Needless to mention that the Tribunal shall provide the claimants another opportunity to produce relevant documents that they are in fact the legal representatives of the deceased.

9. Considering the fact that it is a case of the year 2007, the claim application should be decided as expeditiously as possible preferably within a period of 4 months from the next date of hearing. Parties are directed to appear before the Tribunal on 30th of January, 2018. Meanwhile, the Registry should ensure that the record is sent back to the Tribunal at the earliest so that it reaches the Tribunal well before 30th January, 2018.

**Sd/-
(P. Sam Koshy)
JUDGE**