

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 71 OF 2011

Mithilesh Baghel, aged about 22 years, S/o Mohan Lal Baghel, R/o Village Karesara, P.S. Bemetara, P.O. Karesara, District Durg (C.G.)

... Appellant

versus

1. Karuna @ Rani, S/o Firangidas, aged about 24 years, R/o Village Karesara, Tahsil Saja, District Durg (C.G.)

2. Firangidas, S/o Ubhaydas Satnami, aged about 45 years, R/o Village Mohtara, P.O. Deurgaon, Tahsil Saja, District Durg (C.G.)

... Respondents

For Appellant	:	Mr. D.N. Prajapati, Advocate.
For Respondents	:	Mr. R.K. Pali, Advocate, under instructions of Mr. P.P. Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/01/2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the appellant-owner assailing the award dated 27.10.2010 passed by the Additional Motor Accident Claims Tribunal, Bemetara, District Durg (as it then was), in Claim Case No.63/2010.

2. Vide the impugned award, the learned Tribunal, in a claim case under Section 166 of the Motor Vehicles Act, on the death of deceased Kuldeep, a 21 years old boy, has awarded a compensation of Rs.2,84,000/- to the claimants with interest thereon at the rate of 6% per annum from the date of claim application.

3. Learned counsel for the appellant-owner submits that the accident had occurred as a result of negligence on the part of the motorcycle coming from the opposite direction and therefore the present appellant could not have been fastened with the responsibility of payment of compensation and thus prayed for the setting aside of the award. He further submits that it is a case where the stand itself by the claimants as well as by the present appellant before the Tribunal was that the accident

occurred on account of no fault of the present appellant but on account of the vehicle coming from the opposite direction.

4. Perusal of record would show that it is a case where the deceased Kuldeep was a pillion rider on the motorcycle driven by the present appellant, bearing registration no. CG07-LM-7981. The said vehicle was hit by another vehicle coming from the opposite direction. The driver of the other motorcycle, who was also the owner of the said motorcycle, had also died in the said accident. The motorcycle belonging to the present appellant was not insured.

5. There was no sufficient evidence led by the present appellant with which the negligence on the part of the other vehicle could have been established with which the liability could have been shifted to the other side or at least could have been apportioned suitably. In the absence of any substantive evidence on the part of present appellant and also considering the fact that the deceased in the instant case was a pillion rider on the motorcycle driven by the present appellant, this Court is of the opinion that no strong case has been made out calling for an interference with the impugned award.

6. The appeal thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge