

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 792 of 2011

1. S.K.Shrivastava (Sushil Kumar Shrivastava) S/o K.B.Shrivastava, aged about 60 years.
 2. Smt.Jyotsana Shrivastava W/o S.K.Shrivastava (Sushil Kumar Shrivastava), aged about 55 years.
- Both are R/o Qtr.No. O.B.24, C.S.E.B. Korba East, Korba (C.G.).

---Appellants**Versus**

1. S.K.Shrivastava (Shiv Kumar Shrivastava) S/o Late M.L.Shrivastava, aged about 56 years, R/o Qtr.No.O.B.3/5, C.S.E.B.Colony, Korba East.
 2. The Oriental Insurance Company, Through Branch Manger, Office at T.P.Nagar, Korba (C.G.).
 3. The United Insurance Company Limited, Through – Branch Manager, Office, Opposite Maharishi Vidya Mandir, Korba (C.G.).
 4. Vijit Banerjee S/o B.P.Banerjee, aged about 60 years.
 5. Paami Banerjee W/o Vijeet Banerjee, aged about 51 years.
 6. Sudeep Banerjee S/o Vijeet Banerjee, aged about 22 years.
- Respondents No. 4 to 6 are R/o Bankimongra, Katghora (C.G.)

---Respondents

For appellants	:	Shri Dashrath Kushwaha on behalf of Shri Pushpendra Kumar Patel, Advocate.
For respondent No.2/Oriental Insurance Co.Ltd.	:	Shri Pallav Mishra on behalf of Shri R. N.Pusty, Advocate.
For respondent No.3/United Insurance Co.Ltd.	:	Ms.Chitra Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam KoshyOrder on Board31/01/2018

1. Present is an owner's appeal filed under Section 173 of the Motor Vehicles Act assailing the award dated 12/10/2010 passed by the learned

Additional Motor Accident Claims Tribunal, Katghora, District Korba (C.G.) in Motor Accident Claim Case No. 176/2007.

2. The facts of the case in brief is that, on 05/11/2000, the deceased-Abhishek Shrivastava while driving the Motorcycle-Kinetic Luna bearing registration No. MP-26-GA-5627 had dashed with another Motorcycle coming from the opposite direction bearing registration No.MP-57-B-3084. As a result of the said accident, the deceased-Abhishek Shrivastava died on the spot whereas the other deceased-Sudeep Banerjee received injuries to which he later succumbed. The respondents No.4 & 5, the father and mother of the deceased-Sudeep Banerjee, filed the claim application seeking compensation which stood allowed vide the impugned award dated 12/10/2010 and it was ordered that the claimants will be entitled for a compensation of Rs.1,71,750/- with interest @ 6% per annum and penal interest of 9% in case the amount is not deposited promptly.

3. The contention of the counsel for the appellant is that, the present appellants have been falsely implicated in the instant case and that they are not responsible for the accident in any manner and that the vehicle involved in the accident also was not belonging to them and therefore they could not have been fastened with the liability of payment of compensation.

4. However, perusal of record would show that, it was the minor son of the present appellants namely Abhishek Shrivastava who was driving the Motorcycle at the time of the accident. Therefore, there does not appear to be any strong case made out by the counsel for the appellant calling for an

interference with the impugned award and the finding of contributory negligence so also the liability having being put jointly and severally upon the appellants and the other respondents in the instant case.

5. The appeal thus fails and is accordingly rejected.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE