

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 919 of 2011**

Aakash Agrawal S/o Ganesh Prasad Agrawal, R/o Patpar, Bahadur Shastri Nagar, Bhathapara, Police Station Bhathapara, District Raipur (CG)

---- Appellant**Versus**

1. Smt. Saroj Wd/o Sumranlal Verma, aged about 32 years
2. Tekendra Verma S/o late Sumranlal Verma, aged about 16 years
3. Smt. Hiroundi Bai Wd/o Ratanlal Verma, aged about 55 years

Respondent no.2 is minor through legal guardian mother Saroj Bai, Police Station Simga, District Raipur (CG)

4. Dharmendra Mandle S/o Shri Baliram Mandle, village Khamharia, Police Station Bhathapara, District Raipur (CG) (Driver of alleged vehicle bearing registration no. CG 07 C 6620)
5. Deepak Kumar S/o Gyanchand Pujan R/o Adarsh Nagar ward Number 4, Kawardha, Tahsil & District Kawardha (CG) (Owner of alleged vehicle bearing registration no. CG 07 C 6620)

---- Respondents

For Appellant	:	Shri Y. C. Sharma along with Shri Ajay Chandra, Advocates
For Respondents 1 to 3	:	Shri Sudeep Verma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/01/2018**

The challenge in the present appeal is to the award dated 11.02.2011 passed by the 14th Additional Motor Accident Claims Tribunal (FTC), Raipur in Claim Case No.19 of 2010. Vide the impugned award, the Tribunal, in a death

case has awarded a compensation of Rs.3,80,000/- with interest @ 9% per annum from the date of application.

2. The facts of the case, in brief, are that the deceased in the instant case Sumranlal Verma met with an accidental death on 17.09.2009. There are two vehicles involved in the accident. One is Metador bearing registration No. CG 07C 6620 and the other is a Tata pickup bearing registration no. CG 04G 9675 owned by the present appellant which dashed the Metador in which the deceased was travelling. The legal representatives of the deceased i.e. the widow, children and mother filed a claim application which stood decided vide the impugned award.

3. The contention of the counsel for the appellant is that in fact no accident did take place from the vehicle belonging to the appellant. That the deceased died on account of an accident arising out of some unknown vehicle and that there is no sufficient evidence led by the claimants in this regard to establish the same. It is also the contention of the counsel for the appellant that the claimants themselves have not led any independent witness before the Tribunal to establish the fact that the deceased died because of the use of the vehicle belonging to the appellant.

4. However, perusal of the record would show that the present appellant i.e. the owner of Tata Pickup has not led any evidence before the Tribunal to substantiate his contention neither has he been able to lead sufficient evidence to establish that his Tata Pickup did not meet with an accident on the said date. On the other hand, in the written statement, the appellant himself has admitted the fact that on the said night, the Tata Pickup did meet with an accident though the said accident was not the accident in which the deceased had died.

5. The very fact that the appellant has not led any evidence. On the contrary, in his written statement he has stated that the Tata Pickup on the said

night did met with an accident, from this an inference has to be drawn that the accident was the same accident in which the deceased had died.

6. The appellant has also raised a ground of there being a contributory negligence. However, this aspect also has not been proved by any eye witness or any other evidence with which it could be said that the Metador was parked without any indication or parking light on the middle of the road.

7. For all the aforesaid reasons, this Court does not find any strong case made out by the appellant to interfere with the impugned award. The appeal thus fails and stands dismissed.

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