

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 618 of 2012

1. Ganeshi Bai Wd/o Late Tekram Sahu, aged about 23 years.
 2. Somnath S/o Late Tekram Sahu, aged about 03 years.
 3. Bhushan Kumar S/o Tekram Sahu, aged about 03 months.
Appellants No. 2 & 3 are minor, through nautral guardian mother Ganeshi Bai Wd/o Tekram Sahu.
 4. Smt.Ganga Bai W/o Gadarai Sahu, aged about 55 years.
 5. Gadaraj S/o Bhukhauram, aged about 57 years.
- All are R/o Jarve, Tahsil Sakti, District Janjgir Champa (C.G.).

---Appellants**Versus**

1. Gangaram S/o Samundram Shrivass (died) through legal heirs.
1(A) Tikaram S/o Gangaram Shrivass, aged about 30 years.
1(B) Gurbari Bai @ Teras Bai wd/o Gangaram Shrivass, aged about 65 years.
1(C) Narbadiya Bai @ Teras Bai W/o Chunni Lal @ Khikram Shrivass, aged about 45 years.
All are R/o village Purudih, Tahsil Bhaisma, District Korba (C.G.).
2. Bhuwan Lal Shrivass S/o Gangaram Shrivass, aged about 38 years, R/o Jarve, P.S.Baradwar, Tahsil Sakti, District Janjgir Champa (C.G.).

---Respondents

For appellants/claimants	:	Shri Deepak Kumar Singh, Advocate.
For respondent No.2	:	Shri C.P.Lahre on behalf of Shri Dharmesh Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/02/2018**

1. Present is an appeal filed by the claimants under Section 173 of the Motor Vehicles Act (In short "MV Act") assailing the award dated 28/02/2012 whereby the learned Additional Motor Accident Claims Tribunal, Sakti, District Janjgir-Champa (C.G.) has rejected the claim case i.e. Motor

Accident Claim Case No.91/2006 on the ground that, the claim was not maintainable under Section 166 of the MV Act.

2. The facts of the case in brief is that, the deceased in the instant case Tekram Sahu was a driver of the Tractor and Trolley bearing registration Nos. CG-11-ZG-0783 and CG-11-ZG-0784 respectively. The said Tractor was owned by the respondent No.1 and respondents No. 1(A), 1(B) and 1(C) are the legal representatives of the said respondent No.1-Gangaram.

3. The accidental death arose on 24/05/2006 while the deceased was driving the Tractor, due to a technical fault the front wheel got broken and the Tractor turned turtle and the deceased who was driving the Tractor sustained injuries to which he later succumbed.

4. The claimants had filed the claim application under Section 166 of the MV Act which the Tribunal has rejected on the ground that, the deceased himself was responsible for the accident and that since no other vehicle was involved, there was no negligence attributable to any other person but the deceased and therefore the said claim was not sustainable under Section 166 of MV Act.

5. True it is that, the finding of the Tribunal so far as the claim case under Section 166 is concerned cannot be found fault with, but what also cannot be brushed aside is the fact that, the claim application of the claimants under Section 166 of MV Act even though was not maintainable but considering the fact that the proceedings of payment of compensation being a liberal legislation, the Tribunal should have taken a more pragmatic approach and

should have permitted the claimants to amend the claim application and to convert it into an application one under Section 163-A of MV Act. By rejecting the claim application as not maintainable, the Tribunal has infact literally left the claimants without any compensation for the accidental death caused in the family and which the claimants would have otherwise been entitled for under Section 163-A of MV Act.

6. Under the given facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the impugned award is set aside and the matter is remitted back to the Tribunal concerned. It is ordered accordingly. The claimants shall also be entitled for suitable amendment to be carried out in the claim application by converting the claim application to one under Section 163-A of the MV Act.

7. Since the parties are present before this Court, they are directed to appear before the Tribunal on 14/03/2018.

8. Meanwhile, the registry of this Court is directed to ensure that the records are remitted back to the Tribunal at the earliest.

9. After an appropriate amendment being carried out, it is expected that the Tribunal shall proceed further to decide the case in accordance with law and pass a fresh order as expeditiously as possible, considering the fact that the accident is an old accident so also the claim application.

10. The appeal stands allowed in part and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE