

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 414 of 2014**

1. Ramprasad Ekka son of Mahnaram, aged about 42 years,
2. Smt. Khistina @ Dhombai Ekka, wife of Ramprasad, aged about 40 years,
3. Sitaram Ekka son of Ramprasad, aged about 18 years,
4. Panchram Ekka son of Ramprasad, aged about 13, minor through natural guardian appellant no. 1

All are resident of Village- Kapiyabhauna, Post-Raimer, Police Station and Tahsil- Dharamjaigarh, District- Raigarh (C.G.).

---- Appellants

Versus

1. Mitrudhan Khutia son of Vidyadhar, Occupation- Vehicle Owner, resident of Village- Kapiyabauna, Post- Raimer, Police Sation and Tahsil-Dharamjaigarh, District- Raigarh (C.G.).
2. Kulthu @ Harishankar son of Mitrudhan, aged about 24 years, Occupation- Driver, resident of Village- Kapiyabhauna, Post- Raimer, Police Station and Tahsil- Dharamjaigarh, District- Raigarh (C.G.).
3. Kapoor Chand Gupta S/o Rampal Gupta, aged about 34 years, R/o Village : Dhur, Police Station & Tahsil : Odgi, Revenue and Civil District: Surajpur(C.G.).

---- Respondents

For Appellant : Shri Manoj Jaiswal, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

07.12.2018

1. This is claimants' appeal seeking enhancement of compensation awarded by the 1st Additional Motor Accident Claims Tribunal,

Raigarh (for short 'the Tribunal'), in claim case No. 194/2011 vide award dated 10.03.2014.

2. Facts of the case leading to filing of claim petition are that on the fateful day i.e. 13.06.2011, at about 11.00am, the deceased- Heeralal aged about 15 years, went alongwith respondent No. 2 for cultivating in field, at that time, due to rash and negligent driving by respondent No. 2- Kulthu @ Harishankar of the offending vehicle(tractor) bearing registration No. CG13 A/0520 Heeralal sustained grievous injury on his ankle and after about 17 days of the accident on 01.07.2011 he died.

3. As against the compensation of Rs.18,50,000/- claimed by the claimants by filing claim petition under Section 166 of the Motor Vehicles Act for the compensation in the motor accident on 13.06.2011, learned Tribunal has awarded compensation for treatment of the injury caused to the deceased of Rs.2,000/- along with interest @ 6 % per annum from the date of filing of claim petition till its actual payment.

4 Learned counsel appearing for the appellants would submit that there is direct nexus between the injury caused to the deceased- Heeralal in the accident occurred on 13.06.2011 and his death but the learned Tribunal has fallen in error in awarding low amount of compensation of Rs.2,000/- only for the injury suffered by the deceased. He further submits that the learned Tribunal has erred in not awarding any compensation for death of deceased by observing that there is no nexus between the injuries sustained by the deceased and his death.

5. I have heard the learned counsel appearing for the appellant and perused the award impugned.

6. As per evidence adduced by the claimant/non-applicant No. 1 Ram Prasad Ekka, he has specifically stated in his examination-in chief in para 3 that he is not an eyewitness to the accident and he only heard about the accident. AW2- William is the eyewitness to the accident and he has stated only that Heeralal sustained injuries on ankle. He also admitted in his cross-examination in para 2 that the injury sustained by the deceased was not from the tractor. Considering the evidence of claimant witness -William, it is clear that no injury was caused to the deceased on account of driving of the vehicle, therefore, there is no nexus between the death of the deceased and the injury caused to him, even otherwise, as per Postmortem report vide Ex. P/4 the deceased died due to cardiac arrest and as such there was no nexus between the injury caused to the deceased and his death.

7. For the reasons mentioned hereinabove, I do not find any scope for enhancement of the compensation awarded by the Tribunal.

8. The appeal filed by the appellant for enhancement of the compensation is therefore liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge