

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 564 of 2016**Judgment reserved on : 31.07.2018Judgment delivered on : 09.08.2018

Shalik Ram S/o Late Dev Ram, aged about 42 Years R/o Village- Chherhapara Charcha, Post Office- Charcha, District- Korea, Chhattisgarh (Owner Motor Cycle No. C.G. 16/ F/ 3352).

---- Appellant**Versus**

1. Shrimati Kalaisiya Wd/o Devsaran, aged about 40 years.
2. Kumari Sunita D/o Devsaran, aged about 19 years.
3. Kumari Sarita D/o Devsaran, aged about 19 years.
4. Rajkumar S/o Devsaran, aged about 10 years through legal guardian Shrimati Kalaisiya.

All R/o Village Post- Chandoura, District Surajpur, Chhattisgarh (Claimants).

5. Maya @ Dhansai Ghasiya, aged about 20 years R/o Village- Mayapur 1, P.S. and Tahsil- Pratappur, District- Surajpur, Chhattisgarh.

---- Respondents

For Appellant : Mr. Vishnu Koshta, Advocate.

For respondent No. 1 to 4 : Mr. D.N. Prajapati, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV ORDER**

1. This appeal is preferred by the appellant (owner of the offending vehicle) under Section 173 of the Motor Vehicles Act, 1988 against the award dated 14.09.2015 passed by learned Additional Motor Accident Claims Tribunal Pratappur, District- Surajpur (C.G.) in Claim Case No. 36/2014 wherein, the said tribunal awarded a sum of Rs. 3,56,000/- on account of death of one Dev Sharan in a motor accident dated 16.08.2014.
2. As per claim petition, on 16.08.2014 at about 9.30 p.m. respondent No. 5-

Maya @ Dhansai Ghasiya came by his motorcycle bearing registration No. CG-16-F-3352 to deceased-Dev Sharan's house. Thereafter, Dev Sharan accompanied respondent No. 5 in the said motorcycle and accident took place on account of negligent driving by respondent No. 5, caused death of Dev Sharan.

3. Learned counsel for the appellant submits as under:-
 - (i) Vijender (AW-2) and Ram Sharan (AW-3) were not the witnesses of incident and they deposed a concocted story.
 - (ii) As per police report, vehicle is not identified therefore, liability cannot be fastened on the appellant.
 - (iii) Learned tribunal committed error in applying multiplier method and awarded against the provisions of law.
4. The enquiry under Motor Vehicles Act, 1988 is different from enquiry and investigation under Criminal Procedure Code, 1973. Vijender (AW-2) and Ram Sharan (AW-3) deposed regarding incident that the deceased was sitting in the motorcycle driven by respondent No. 5 and due to negligent driving, deceased fell down from the motorcycle, resultantly died due to said accident.
5. In the FIR, name of respondent No. 5 is clearly mentioned as driver of the offending vehicle. It is not a case that he was driving some different motorcycle. Respondent No. 5 who appeared as NAW-2 before the tribunal simply denied the accident, but his simple denial is meritless looking to the FIR and evidence of eyewitnesses. Therefore, the tribunal is right in holding that accident occurred due to negligent driving by respondent No. 5 and appellant is registered owner of the said vehicle.
6. The date of incident is 16.08.2014. The tribunal assessed notional income of

the deceased as Rs. 100 per day which was less than minimum wages, therefore, assessment of the tribunal is on lower side and the same cannot be interfered by this Court without reason.

7. The appellant has to pay only half of the awarded amount as the tribunal has ordered. The driver and owner to pay equally.
8. Looking to the entire material placed on record, the grounds raised by the appellant is not sustainable.
9. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge