

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1537 of 2018**

- National Insurance Company Ltd., Through its Divisional Manager, Divisional Office- Korba, P.O. & Distt.- Korba (C.G.).

---- Appellant**Versus**

1. Shanti Devi, Wd/O- Late Sitaram Sharma, aged- 70 years, Occupation- House wife.
2. Deepak Kumar Sharma, S/o- Late Sitaram Sharma, aged about- 45 years. Occupation- Service.
3. Prakash Kumar Sharma, S/o- Late Sitaram Sharma, aged- 40 years, Occupation- Business.

All are R/o- Vill.- Satpata, P.S. Bishrampur, Distt- Surajpur (CG).

4. Ashik Ahmad Quraishi, S/O- Sahid Ahmad Quraishi, aged- 30 years, Occupation- Driver, R/O- Main Road, Bishrampur, P.S. & P.O-Bishrampur, Tah.- Surajpur, Distt.- Surguja (CG).
5. Zameel Ahmed, S/o- Basir Ahmed, R/o- Hansapur, Mominpura, Nagpur (Maharashtra).

---- Respondents

For Appellant	: Shri Dashrath Gupta, Advocate
For Respondent.	: None

Hon'ble Shri Justice Gautam Chourdiya
Order On Board

05.10.2018

(1) Heard on I.A. No. 1./2018, application for condonation of delay of 50 days in filing the MAC.

(2) For the reasons mentioned in the application, the same is allowed and the delay in filing the appeal is hereby condoned.

(3) This is an appeal filed by the appellant/Insurance Company under Section 173 of the Motor Vehicles Act, 1988 (henceforth "Act, 1988") against the award dated 26.03.2018 passed by the 3rd

Additional Motor Accident Claims Tribunal, Surajpur (for short 'the Tribunal') in claim case No. 263/2011.

(4) As against the compensation of Rs. 20,00,000/- claimed by the unfortunate widow and children of deceased Sitaram, aged about 70 years by filing application under Section 166 of Motor Vehicles Act, 1988 (for short 'MV Act') for his death in the motor accident on 12.02.2001, the Tribunal awarded a lumpsum amount of Rs.70,000/- to the widow of deceased.

(5) The Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, held that the death of deceased had no nexus with the accident occurred on 15.02.1999 as he died after 2 years of the said accident on 12.02.2001 which appears to be natural death. However, the Tribunal awarded Rs. 15,000/- towards loss of estate, Rs. 40,000/- towards loss of consortium and Rs. 15,000/- for funeral expenses i.e. total Rs. 70,000/- in favour of respondent No.1, fastening the liability of its payment on the appellant/Insurance Company.

(6) Learned counsel for the appellant argues that the Claims Tribunal has erred in granting Rs. 70,000/- under the conventional heads because it has already held that the death of the deceased had no connection with the accident and the same was natural death. In these circumstances the claimants are not entitled for any amount as compensation for the death of deceased- Seetaram.

(7) I have heard learned counsel appearing for the appellant/Insurance Company and perused the impugned award.

(8) The learned Tribunal has awarded the amount of 70,000/- towards the conventional heads i.e. loss of estate, loss of consortium and loss of funeral expenses in light of judgment rendered by the Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** to the unfortunate widow of the deceased. However, the award of Rs. 70,000/- under conventional heads is not inconsonance with the finding recorded by the Tribunal in respect of death of the deceased as the Tribunal has held that the death of the deceased had no nexus with the accident as he died 2 years after the accident.

(9) From careful perusal of the award impugned and the statement of Prakash Kumar Sharma (AW-1) it appears that long treatment was provided to deceased Sitaram from the date of accident i.e. from 15.02.1999 till his date of death i.e. 12.02.2001, though no document in respect of expenses incurred on medical treatment of the deceased has been filed by the claimant, however, considering the overall circumstances of the case, the fact that the deceased had suffered certain injuries in the accident occurred on 15.02.1999 and further looking to the age of widow of deceased i.e. 70 years; this court is of the view that widow of deceased is entitled for Rs. 70,000/- towards medical expenses and pecuniary loss in place of conventional heads as granted by the Tribunal.

(10) With the aforesaid observations, the appeal stand disposed of. The award impugned stand modified to the above extent.

Sd/-
(Gautam Chourdiya)
JUDGE

and the appellants/owner and driver is entitled to recover the amount, if any, within two months which is deposited before the learned Claims Tribunal in compliance of this Court order. The claimants are entitled to recover the award of compensation passed by the Claims Tribunal i.e. Rs.1,75,000/- per annum with 6% interest per annum from the date of claim petition from the Respondent No.4/The Oriental Insurance Company within two months.