

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1911 of 2018

1. Smt. Mangal Kawasi W/o Late Maso Kawasi Aged About 27 Years
2. Ku. Vijo Kawasi D/o Late Maso Kawasi Aged About 9 Years (Minor), Through Natural Guardian Mother Appellant No. 1 Smt. Mangal Kawasi,
3. Madda Kawasi S/o Late Tokai Kawasi Aged About 51 Years Caste Madiya,
4. Smt. Hungi, W/o Madda Kawasi Aged About 49 Years Caste - Mdiya,
5. Hidmo Kawasi D/o Madda Aged About 31 Years Caste - Madiya,

All R/o Village Sadra, Bodenar Kotwar Para, Police Station Kodenar, District Bastar Chhattisgarh. (Claimants),

---- Appellants

claimants

Versus

1. Father Thomas Chandi S/o Chandi Aged About 54 Years Nirmal Sadan Dharampura, Jagdalpur, Post Dharampura, Jagdalpur, District Bastar Chhattisgarh, At Present R/o Tom Sadan, Bijapur, Post Bijapur, District Bijapur Chhattisgarh.,
2. New India Insurance Companay Limited Akashwani And Collectorate Road, Jagdalpur, Post Jagdalpur, District Bastar Chhattisgarh.

---- Respondents

For Appellants : Shri Punit Ruparel, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

06/12/2018

Heard on IA No.01, application for condonation of delay in filing

the appeal.

02. For the reasons mentioned in the application, which is duly supported by affidavit, the application is allowed and delay in filing appeal is condoned.

03. Heard on admission.

04. This appeal is by the claimants against the award 23.7.2018 passed by III Additional Motor Accident Claims Tribunal, Bastar at Jagdalpur in Claim Case No.135/2017 awarding total compensation of Rs.9,26,800/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

05. As per claim petition, on 11.7.2017 deceased Maso Kawasi was going on motorcycle TVS Star bearing No. CG 17 KJ 6425 when his vehicle was dashed by car Maruti (Swift Dezire) bearing No. CG 17 KH 7490 driven by non-applicant No.1 in a rash and negligent manner, as a result of which deceased Maso suffered grievous injuries and died on the spot.

06. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties granted compensation as mentioned above.

07. Learned counsel for the appellants submits that though he has raised various ground in the appeal, however, he is assailing the award only on the ground that award of interest @ 6% by the Tribunal is not justified and it should have been at least 9% and secondly, that the Tribunal was not justified in directing for deposit of share of claimant No.2 Ku. Vijo Kawasi, aged 9 years, of Rs.3 lacs in a nationalized bank till she attains majority as the claimants being poor persons are in dire need of the whole amount for their survival. He submits that at the most, the said deposit may be directed to be for a period of five years only.

08. Heard learned counsel for the appellant and perused the material available on record.

09. As regards award of interest by the Tribunal, considering the overall facts and circumstances of the case, the Tribunal has awarded 6% per annum interest on the awarded amount which cannot be said to be on the lower side. So far as direction of the Tribunal for deposit of share of claimant No.2 Ku. Vijo Kawasi, aged 9 years, in a nationalized bank till her attaining majority is concerned, in the given facts and circumstances of the case, the said finding can also not be said to be irrational or illegal. Even otherwise, if the claimants in future need the said amount for meeting any emergent situation, they are at liberty to move appropriate application for withdrawal of the said amount or part thereof which shall be considered by the Tribunal on its own merits. Hence the appeal filed by the appellants/claimants being without any substance is liable to be dismissed and is, accordingly, dismissed at the admission stage itself.

Sd/

(Gautam Chourdiya)

Judge