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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 685 of 2013

- National Insurance Company Limited, Branch Manager, Balkot Road Gumla, Post, Police Station and Tahsil Gumla, State Jharkhand and Branch near Ring Road, Ambikapur, Police Station & Tahsil Ambikapur, Surguja (C.G.)
Through – Divisional Office, Priyadarshini, Nagar, Vyapar Vihar, District Bilaspur (C.G.)

**---- Appellant/Insurer/Non-applicant No.4
Versus**

1. Philip Kerketta, S/o Imanvel Kerketta, aged about 55 years, Occupation- Agriculturist
2. Smt. Venedikta Kerketta, W/o Shri Philip Kerketta, aged about 50 years, Occupation- Housewife
Both R/o Village Jokbahla, Tahsil Kunkuri, District Jashpur (C.G.), At present R/o Village Kamleshwarpar (Police Campus), Post Kamleshwarpar, Tahsil Mainpart, District Surguja (C.G.)
(Claimants)
3. M/s Binod Kumar Jain S/o Hanuman Prasad Jain, aged about 50 years, Occupation- Contractor
(Owner/Non-applicant No.2)
4. Vinod Uraon, S/o late Matu Uraon, aged about 40 years, Occupation- Driver Respondent No. 3 & 4, R/o M/s Binod Jain, College Road, Post & Tahsil Jashpur Nagar (C.G.)
(Driver/Non-applicant No.3)

---- Respondents/Non-applicants

For Appellant/Insurer	:	Shri Qamrul Aziz, Advocate
For Respondents 1 & 2	:	Shri Surfaraj Khan, Advocate
For Respondent No.3	:	Shri Rishikant Mahobia, Advocate
For Respondent No.4	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

26.04.2019

1. Being aggrieved with the award dated 30.03.2013 passed in MACC No. 54 of 2012 by the Third Additional Motor Accident Claims Tribunal, Ambikapur, Surguja (C.G.), the Appellant/Insurance Company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988.
2. As against compensation of Rs.1,23,60,000/- claimed by the Claimants, unfortunate parents of deceased- Ajit Kerketta, by filing claim application under

Section 166 of the Motor Vehicles Act, 1988 for death of their son in the motor accident. The Tribunal awarded a total sum of Rs.15,45,062/- along with interest @ 6% per annum from the date of application till realization and fastened the liability upon non-applicants No. 1 and 4 (Both same Insurance Company).

3. Brief facts are that on 17.01.2011, deceased- Ajit Kerketta when going to his working place at Tahsil Office Manora by his motorcycle bearing registration No. CG-15/CF/8992 from his Village Jokbhala, Vinod Uraon- non-applicant No.3/driver of the offending vehicle Dumper bearing registration No. CG-15/A/2068, owned by non-applicant No.2 and insured with non-applicant No.4, driving the said offending vehicle in a rash and negligent manner, dashed the motorcycle of Ajit Kerketta near Village Sogada. As a result thereof, Ajit Kerketta sustained grievous injuries and he was taken to District Hospital, Jashpur for treatment, where he died.

4. Learned counsel for the Appellant/Insurance Company submits that multiplier of 17 has wrongly been applied and considering the age of Claimants (mother and father of the deceased – Ajit Kerketta) i.e. above 50 years, it should have been 10. He further submits that the Tribunal has wrongly added D.A. @ 72% to the basic and grade pay of the deceased because no evidence of Employer has been examined by the Claimants in respect of income and employment of the deceased. He also submits that at the time of accident, the deceased was not having a driving licence to drive the motorcycle.

5. Learned counsel for Respondents 1 and 2 supports the impugned award and submits that the deceased was a government servant working as Patwari in Tahsil Office, Manora, District Jahspur, his basic pay & grade pay mentioned in Ex.-P/19, therefore, the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.

6. Learned counsel for Respondent No.3 has also opposed the contention made by learned counsel for the Appellant and supports the award impugned.

7. Heard learned counsel for the parties and perused the material available on record.

8. It is not disputed by the parties that the deceased was a Patwari in Tahsil Office, Manora, District Jahspur and Ex.-P/18 and Ex.-P/19 produced and proved by the Claimant regarding pay bill and payment of income of the deceased. Therefore, considering the facts and circumstances of the case, particularly looking to the deceased was a government servant, 72% D.A. considered by the Tribunal is permissible under the law. Further, it was argued that on the date of accident, the deceased was not having a valid and effective driving licence, but in that regard, the Insurance Company has not adduced any evidence in rebuttal.

9. In view of the decisions of the Hon'ble Supreme Court in the matter of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, the multiplier of 17 selected by the Tribunal considering the age of the deceased in between 26-30 years, in my opinion, is appropriate and does not call for any interference.

10. In this view of the matter, the appeal filed by the Insurance Company under Section 173 of the Motor Vehicle Act is liable to be dismissed and is hereby dismissed.

11. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge