

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 657 of 2013**

1. State of Chhattisgarh, Mineral Resources Department, Through- District Mining Officer, Ambikapur, Distt. Surguja C.G.
2. Director, Geological and Mining, Ring Road, Sona Khan, Raipur, P.S. Telibandha, Raipur C.G.

---Appellants**Versus**

1. Smt. Shyamadevi W/o Late Ravindra Gupta Aged About 34 Years
2. Smt. Gulpatidevi W/o Late Kuldip Sao, aged about 80 Years
3. Ku. Arti D/o Ravindra Gupta, aged about 14 Years
4. Ku. Puja D/o Late Ravindra Gupta, aged about 12 Years
5. Ku. Swati D/o Late Ravindra Gupta, aged about 5 Years
6. Purshottam Das Jangde S/o Fareda Das Jangde, aged about 55 Years, Occupation Vehicle Driver

All are Caste Kalvar, village Banshipur, P.S. and Tah. Bhatgaon, Distt. Surajpur C.G.

---- Respondents

For Appellants	Shri Aman Kesharwani, P.L.
For Respondent No.6	Shri B.L. Sahu, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****24/04/2019**

1. This appeal is by the State/non-applicants No.1 & 3 against the award dated 25.03.2013 passed by the Additional Motor Accident Claims Tribunal, Pratappur, District Surajpur, C.G. in Claim Case No.19/2012 awarding total compensation of Rs.8,03,000/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

2. As per claim petition on 24.11.2010, deceased Ravindra Gupta, aged about 40 years, earning Rs.15,000/- per month by running grocery shop and also doing other works was going on motorcycle Bajaj bearing no.CG15-E-5379 from Ambikapur to his village Bansipur. However, on the way non-applicant no.2 driving the Truck bearing no.CG02/1288 owned by non-applicant nos. 1 & 3, in a rash and negligent manner dashed the motorcycle of Ravindra Gupta, as a result of this accident Ravindra Gupta suffered grievous injuries, he was taken to district hospital Ambikapur, where during treatment he died itself on 24.11.2010 at 5:00 pm.
3. On claim petition being filed by the claimants i.e. wife, children and parents of the deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.23,75,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.
4. Learned counsel for the appellant submits that respondent no.6 driver of the offending vehicle was not liable for the accident. He also submits that no evidence adduced by the claimants regarding the vehicle being driven by respondent no.6 in a rash and negligent manner. He further submits that respondent no.6 was driving the vehicle carefully but all of a sudden on the way one bus was stopped by its driver and for avoiding any accident respondent no.6 driver of the offending vehicle turned the vehicle towards the corner of the road and due to this motorcycle of the deceased got dashed against his vehicle. No any negligence is proved by the claimants against respondent no.6, therefore, liability fastened upon the State is against the law.

5. Counsel for the respondent No.6 supports the contention made by the appellant's counsel.
6. Heard learned counsel for the parties and perused the material available on record.
7. From the evidence available on record, it is seen that on the date of accident i.e. 24.11.2010 itself merged intimation Ex.P-2 was lodged. At the instance of one Virendra Kumar Gupta, FIR Ex.P-6 was registered against the driver of the truck bearing no.CG02-1288 under Section 279 and 337 of IPC. During investigation statements of the witnesses were recorded and thereafter charge sheet Ex.P-1 was filed against non-applicant no.2 Purshottam Das for the offence punishable under Section 279, 337, 304 and 304-A of IPC. The claimants in support of their claim petition filed the aforesaid documents Ex.P-1, Ex.P-2, Ex.P-6, Ex.P-3 (inquest), Ex.P-4 (application for postmortem), Ex.P-5 (Postmortem Report), Ex.P-7 (Spot Map) and certain other documents. The aforesaid documents have not been controverted by the non-applicants. As per statement of non-applicant no.2 driver of the offending vehicle, he admitted in para 3 of his cross-examination that he did not lodge any FIR against the driver of the bus, who had negligently stopped the bus on the road. He also admits that he did not make any written complaint in this regard to the department. Though the non-applicants have pleaded that the accident did not occur due to negligence on the part of non-applicant no.2 but it was due to negligent driving of another vehicle bus but no evidence whatsoever has been adduced in this regard by the non-applicants to substantiate the same. It is a well settled principle of law that mere raising of particular plea is not sufficient but it has to be proved by

pleading cogent and reliable evidence. It is also a well settled principle of law that while deciding the claim cases, the Court/Tribunal is not to insist upon the strict rule of evidence but has to decide the same on the basis of preponderance of probabilities. Thus, keeping in view the over all facts and circumstances of the case, the manner in which the accident occurred, the pleadings and the evidence adduced by the respective parties, this Court is of the opinion that the Tribunal was fully justified in holding non-applicant no.2 responsible for causing the accident, resulting in death of deceased and fastening the liability on non-applicants no. 1 & 3 for paying compensation to the claimants.

8. In the result, the appeal filed by the appellants being without any substance is liable to be dismissed, and is, accordingly dismissed.

Sd/-
Gautam Chourdiya
Judge