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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 386 of 2013**

- United India Insurance Company Limited, through its Divisional Manager, Divisional Office, Krishna Complex, 1st Floor, Kutchery Chowk, Raipur, Distt. Raipur C.G.

----Appellant**Versus**

1. Smt. Rameshwari Verma Wd/o Late Laxman Lal Verma Aged About 38 Years
2. Nirmal Verma S/o Late Laxmanlal Verma Aged About 18 Years
3. Rajat Verma S/o Late Laxman Lal Verma Aged About 14 Years Minor, through his mother Smt. Rameshwari Verma (respondent no.1)

Respondent nos. 1 to 3 all are R/o House No. C-6 behind Holy Cross School, Pension Bada, Raipur, District Raipur, C.G.

4. Vijendra Kumar S/o Chandradev Prasad Aged About 26 Years R/o Ramnagar, P.S. Khamtarai, Distt. Raipur C.G.
5. Sandesh Tiwari S/o Suresh Tiwari Aged About 27 Years R/o Awadhपुरi, Near New Ram Mandir, Bhatagaon, Ring Road No. 1, Raipur, Distt. Raipur C.G.

---- Respondents

For appellant	Shri Dashrath Gutpa, Advocate.
For Respondent nos. 1 to 3	Shri A.L. Singroul, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

15/05/2019

1. Vide order dated 24.03.2014 on the direction of this Court Shri Ratan Pusty, Advocate accepted notice on behalf of respondents/claimants and accordingly authorization letter was issued in his favour by the High Court Legal Services Committee. However, subsequently, Shri Ratan Pusty was empanelled as an

Advocate for United India Insurance Company, therefore, he expressed his inability to represent the claimants in this case and accordingly intimated the High Court Legal Services Committee in this regard. Thereafter, Shri Guha, Advocate was appointed by C.G. High Court Legal Services Committee for representing the appellant. However, despite repeated calls Shri Guha is not appearing to argue the matter. In these circumstances, Shri A.L. Singroul, Advocate present in the Court, empanelled in the list of High Court Legal Services Committee is requested to represent the claimants in this case.

2. This appeal is by the Insurance Company/non-applicant no.3 against the award dated 28.02.2013 passed by the 5th Additional Motor Accident Claims Tribunal, Raipur, C.G. in Claim Case No.165/2012 awarding total compensation of Rs.24,86,240/- with interest @ 8% per annum from the date of application till realization, fastening liability on the Insurance Company along with non-applicants no.1 & 2 jointly and severally.
3. As per claim petition, on 29.11.2011 deceased Laxman Lal Verma, 42 years, earning Rs.17,000/- per month as Head Constable, died in the motor vehicular accident caused due to rash and negligent driving of Indica Car bearing no.CG04-DK-2900 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

4. On claim petition being filed by the claimants i.e. wife and children of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.47,50,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.
5. Learned counsel for the appellant submits that though he has raised various grounds in the memo of appeal, however, he is not pressing all those grounds and is assailing the award only on the sole ground that the Tribunal was not justified in assessing the compensation payable to the claimants without deducting the amount being received by son of the deceased on account of his compassionate appointment. Reliance has been placed on the decision of ***Bhakhara Beas Management Board vs Kanta Agrawal and others***, reported in ***2008 (3)T.A.C. 661 (SC)***.
6. On the other hand, learned counsel for the respondent nos. 1 to 3 supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.
7. Heard learned counsel for the parties and perused the material available on record.
8. The only issue to be considered by this Court is whether the amount being received by the dependent of the deceased through compassionate appointment is deductible while

computing compensation payable to the claimants or not. The said issue has already been dealt with in detail by the Hon'ble Supreme Court in the matter of ***Vimal Kanwar and others vs. Kishore Dan and others***, reported in ***(2013) 7 SCC 476***. Thus, considering the reasons assigned by the Tribunal in the impugned award for granting compensation to the claimants in the light of principles of law laid down by the Hon'ble Supreme Court in the matter of ***Vimal Kanwar*** (supra), this Court find no substance in the argument advance by learned counsel for the appellant.

9. In the result, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh