

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 445 of 2019

1. Smt. Madhu Bai Navrange, aged about 45 years, wife of Dauram Navrange
2. Dauram Navrange, aged about 47 years, son of Jhariyaram

Both are resident of Village- Shivghat, Sarkanda, Police Station- Sarkanda,
Tahsil & District- Bilaspur (C.G.)

---- Appellants/Claimants

Versus

1. Smt. Indra Bai wife of Jhalaram, resident of Dudhiya Nawagaon, Police Chowki-Marol, Tahsil & District- Bemetara (C.G.)
2. The Oriental Insurance Company Limited, through the Branch Manager, Branch Office, Rama Trade Centre, in front of Rajeev Plaza, near Bus Stand, Bilaspur, Tahsil & District- Bilaspur (C.G.)

---- Respondents/Non-applicant No.2

For Appellants	:	Shri A.L. Singroul, Advocate
For Respondents	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

05.03.2019

Heard on admission.

2. This appeal is by the Appellants/Claimants against the award dated 17.12.2018 passed by the Second Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No. 167 of 2018 awarding total compensation of Rs.1,00,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on non-applicant No.2.

3. Facts of the case are that on 29.09.2017 on the instructions of non-applicant No.1, deceased Bhanupratap Navrange @ Pintu went to leave the mother-in-law of non-applicant No.1 by motorcycle Hero Honda Splender bearing registration No. CG-25 – 7080, which was owned by non-applicant No.1 and insured with non-applicant No.2, to village Kharhari and while returning from village Kharhari, on the

way due to mechanical break down the motorcycle got uncontrolled and dashed against the unknown four wheeler vehicle coming from back side. As a result thereof, Bhanupratap Navrange died on spot. At the time of accident, deceased was aged about 23 years and earning Rs.3,300/- per month as driver.

4. On claim petition being filed by the Claimants i.e. mother and father of the deceased- Bhanupratap Navrange under Section 163A of the Motor Vehicles Act for compensation to the tune of Rs.5,84,600/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned above in para-2 of this judgment.

5. Learned counsel for the Appellants/Claimants submits that the claim petition was filed under Section 163A of the Act where negligence is not required to be proved. He submits that the Tribunal has wrongly observed that the deceased has stepped into the shoes of the owner whereas the deceased was the third party. Therefore, the amount of compensation awarded by the Tribunal deserves to be enhanced suitably.

6. Heard learned counsel for the Appellants/Claimants and perused the impugned award.

7. From perusal of the impugned award, it is seen that admittedly on the date of accident, the deceased was ridding the motorcycle Hero Honda Splender bearing registration No. CG-25 – 7080 which was owned by non-applicant No.1 and duly insured with non-applicant No.2. Though the Claimants have pleaded that the deceased was working as a driver in private car, however, the same has not been proved by the Claimants as required under the law.

8. Since the deceased had stepped into the shoes of owner of the vehicle and in para-14 of the impugned award, as per insurance policy (Ex.-D/1), premium of Rs.50/- was taken by the Insurance Company towards PA coverage of owner-driver for its limited liability of Rs.1,00,000/-, keeping in view of the decisions of this in the matter of ***Bajaj Alliance General Insurance Co. Ltd. Vs. Smt. Savita Sahu and others in MAC No. 331/2012*** and ***Sakun Kushwaha and others Vs.***

Dhaniram and others, ACJ 2012 (II) 232, this Court is of the opinion that the Tribunal has not committed any illegality in awarding compensation of Rs.1,00,000/- in favour of the Claimants with interest @ 6% per annum from the date of claim petition till realization. This Court finds no illegality or infirmity in the findings so recorded by the Tribunal warranting interference by this Court.

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

Sd/-
(Gautam Chourdiya)
Judge