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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1030 of 2019

1. Seema Devi W/o Shri Rajkishore Singh Aged About 40 Years
2. Mahavir Singh S/o Shri Rajkishore Singh Aged About 23 Years
3. Ku. Priyanka D/o Shri Rajkishore Singh Aged About 20 Years

All are R/o Ward No. 40, Teacher Colony, Domanhil, Police Station Chirmiri, Tahsil Khadgawan, District Korea Chhattisgarh.

----Appellants

Versus

1. Rajkishore Singh S/o Late Sitram Singh Aged About 46 Years, R/o Ward No. 14 Block, Domanhil, Police Station Chirmiri, Tahsil Khadgawan, District Korea Chhattisgarh (Owner).
2. Branch Manager, Shriram General Insurance Comapany Limited, Maruti Heights, Fourth Floor, Infront Sky Auto Mobile, Mahoba Bazar, Raipur, District Raipur Chhattisgarh (Insurer)

---- Respondents

For Appellants	Shri Praveen Dhurandhar, Advocate.
For Respondents	None.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

18/06/2019

1. Heard on **I.A. No.1**
2. This is an application for condonation of delay of 30 days in filing the MAC.
3. For the reasons mentioned in the application which is duly supported by affidavit, the same is allowed and delay in filing the MAC is condoned.
4. Also, heard on admission.

5. This appeal is by the claimants against the award dated 31.01.2019 passed by the Second Additional Motor Accident Claims Tribunal, Manendragarh, District Koria, C.G. in Claim Case No.46/2017 awarding total compensation of Rs.2,00,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant no.2.

6. As per claim petition, on 22.11.2016 deceased Sanni Kumar Singh driving the pick-up vehicle bearing registration no.CG16-A-2547 which was owned by his father i.e. non-applicant no.2 and insured with non-applicant no.3, on the way due to mechanical break down the vehicle got uncontrolled and dashed against the tree. At the time of accident, deceased was aged about 22 years and earning Rs.3,300/- per month as driver.

7. On claim petition being filed by the claimants i.e. Mother, Brother and Sister of deceased under Section 163A of the Motor Vehicles Act for compensation to the tune of Rs.9,83,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 5 of this judgment.

8. Learned counsel for the appellants 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 and as such was entitled for compensation as per structured formula given in the 2nd Schedule of under Section 163A of the Act. Therefore, the amount of compensation awarded by the Tribunal deserves to be enhanced suitably.

9. Heard learned counsel for the appellant and perused the impugned award.

10. From perusal of the impugned award, it is seen that admittedly on the date of accident the deceased was driving the vehicle pick up bearing no. CG16-A-2546 which was owned by his father 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 the vehicle owned non-applicant no.1, however, the same has not been proved by the claimants as required under the law. The Tribunal considering the over all evidence on record held that the deceased stepped into the shoes of the owner and, therefore, the compensation cannot be assessed as per structured formula given under Section 163A of the Act. In para 21 of the impugned award the Tribunal has recorded a finding that the Insurance Company had taken premium of Rs.100/- towards PA coverage of owner-driver and its limited liability in the event of death of owner-driver was Rs.2 lacs only. In para 22 the Tribunal has observed that though the amount of compensation towards limited liability of PA coverage can be recovered from the Insurance Company directly or through other forum but the claimants have been contesting the claim case before the Tribunal for more than a year and in these circumstances it would not be appropriate to direct the claimants to take recourse to appropriate forum for getting compensation. Hence, the Tribunal considering the over all facts and circumstances of the case, the status of the deceased, the nature of insurance policy i.e. package policy covering the risk of owner-cum-driver against premium of Rs.100/- to the extent of Rs.2 lacs only, awarded compensation of Rs.2 Lacs 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.

11. 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

Akhilesh