

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1644 of 2018

1. State Of Chhattisgarh Through The Collector, Gariyaband District- Gariyaband, Chhattisgarh Defendant No.4
2. The Director General Of Police Chhattisgarh.....(Defendant No.5)
3. The Superintendent Of Police Gariyaband District- Gariyaband, Chhattisgarh.....(Defendant No.3)
4. The Commandant 4th Battalion, Chhattisgarh Armed Force, Mana, District- Raipur, Chhattisgarh.....(Defendant No.2)

---- Appellants

Versus

1. Smt. Fulmati Bai Wd/o Ankur Pradhan Aged About 30 Years
 2. Ku. Khemeshwari D/o Late Ankur Pradhan Aged About 7 Years
 3. Ku. Gauri D/o Late Ankur Pradhan Aged About 4 Years
- (No. 2 and 3 represented through Vali mother Smt. Fulmati Bai Wd/o Ankur Pradhan)
4. Mungiya Ram Pradhan S/o Gangadhaar Pradhan Aged About 70 Years
- All R/o Village Dodara, P.S. Beobhog, Tahsil Mainpur, District- Gariyaband, Chhattisgarh.....(No. 1 To 4 Are Claimants),
5. Yogendra Paikra S/o Shivrath Sai Paikra Aged About 28 Years R/o Bisitola, P.S. Bagbahar, District- Jashpur Nagar, Chhattisgarh, Presently R/o 4th Battalion Caf, Mana, P.S. Mana, District- Raipur, Chhattisgarh.....(Defendant No.1)
 6. Ishwar Nishad S/o Yovraj Nishad Aged About 28 Years Teacher, Primary School Dorra, Tahsil And P.S. Deobhog, District- Gariyaband, Chhattisgarh.....(Defendant No.6),

---- Respondents

For Appellants	:	Shri RR Singh, Dy. A.G.
For Respondents No. 1 to 4	:	Shri S. Pandya, Advocate.
For Respondents No.5 & 6	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

13/03/2019

This appeal is by the State under Section 173 of the Motor Vehicles Act, 1988 against the award 17.1.2018 passed by Additional Motor Accident Claims Tribunal, Gariyaband (CG) in Claim Case No.54/2014 awarding total compensation of Rs.7 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on non-applicants No. 1, 4 & 5 jointly and severally.

02. As per claim petition, on 12.4.2014 Ankur Pradhan was riding on motorcycle bearing No. CG 04 FJ 5618 as a pillion rider which was being ridden by Ishwar Lal. However, on the way, non-applicant No.1 Yogendra Paikra by driving Anti-land Mines vehicle bearing No. CG 03 5128 in a rash and negligent manner, dashed the said motorcycle as a result of which Ankur Pradhan suffered grievous injuries and died on the spot itself.

03. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, 1988 (in short "the Act"), the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellants/State submits that though the claim petition was filed before the Tribunal under Section 166 of the Act, however, in the grounds of appeal it has wrongly been mentioned that the same was filed u/s 163A of the Act. He submits that at the time of accident, the rider of the motorcycle was not having a valid and effective driving licence and as such, there was contributory negligence on the part of the deceased but the same has not been considered by the Tribunal.

05. On the other hand, learned counsel for the respondents/claimants supports the impugned award and submits that the deceased was the pillion rider and as such, the question of contributory negligence on the part of the deceased does not arise.

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

07. From perusal of the record it is seen that the deceased was sitting on the motorcycle as a pillion rider, the claim petition was filed under Section 166 of the Act, at the time of accident the deceased was 45 years of age, there were four dependents upon the deceased, in absence of evidence regarding income of the deceased, his notional income @ Rs.4000/- per month has been considered by the Tribunal and further 25% towards future prospect has been granted. Under the conventional heads, the Tribunal allowed Rs.70,000/-. Admittedly, on the date of accident, the offending vehicle was not insured and the deceased being pillion rider was not responsible for the accident in any manner. Thus, considering the decisions of the Hon'ble Supreme Court in the matters of **Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121** and **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**, this Court is of the opinion that the Tribunal has rightly assessed the income of the deceased as Rs.4,000/- p.m., applied multiplier of 14, deducted 1/4th towards personal and living expenses of the deceased, granted 25% towards future prospect and Rs.70,000/- under conventional heads. Thus, the compensation awarded to the claimants is just and proper and the Tribunal was also fully justified in fastening liability on non-applicants No. 1, 4 & 5 of satisfying the award.

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

Sd/

(Gautam Chourdiya)

Judge