

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 503 of 2020**

- Municipal Corporation Jagdalpur Through Municipal Commissioner Jagdalpur, District Bastar Chhattisgarh.....Appellant (Respondent No. 2) **---- Appellant**

Versus

1. Gagan S/o Late Shri Bablu Nag, Aged About 29 Years R/o Meghnath Ghera Ambedkar Ward, Jagdalpur, District Bastar Chhattisgarh.
2. Toofan S/o Late Shri Bablu Nag, Aged About 29 Years R/o Meghnath Ghera Ambedkar Ward, Jagdalpur, District Bastar Chhattisgarh.

---- Respondents

For Appellant:-

Shri Ashutosh Singh Kachhawaha

Hon'ble Shri Justice Sanjay S. Agrawal
Order On Board

04/03/2020

1. This Miscellaneous Appeal has been preferred by Non-Applicant No. 2- Municipal Corporation Jagdalpur under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act of 1988') questioning the legality and propriety of the award dated 15.01.2020 passed by the 2nd Additional Motor Accident Claims Tribunal, Jagdalpur, District Bastar (for short 'the Claims Tribunal') in Claim Case No. 101/2019 by which, the learned Claims Tribunal, while allowing the claim in part, has awarded a total amount of compensation to the tune of Rs.8,10,000/- (Rupees Eight Lakhs Ten Thousand Only) with 9% interest per annum from the date of filing of the claim petition till its realisation. The parties to this appeal shall be referred hereinafter as per their description in the Claims Tribunal.
2. Briefly stated, the facts of the case are that on 17.02.2018 at 8:00 A.M., deceased- Smt. Subaran Nag went for morning walk and as soon as she reached near the Chopra Saw Mill at Industrial Area, she was

dashed vehemently from its opposite side by the offending vehicle i.e. garbage collecting vehicle, mini-truck 'Chhota Hathi' bearing its Chesis No. 445239 GZJ/33665 having its Engine No. 275 IDJ 06 JTYS 98812, which was owned by Non-Applicant No.2/the Corporation. At the relevant time, the vehicle in question was being driven rashly and negligently by its driver, namely, Laxman Bishai, as a result of which, deceased (Smt. Subaran Nag) injured badly and expired during the course of her treatment.

3. On account of the aforesaid accident, the Claimants being legal representatives of deceased Smt. Subaran Nag instituted a claim petition under Section 166 of the Act of 1988 claiming total amount of compensation to the tune of Rs.17,65,000/- (Rupees Seventeen Lakhs Sixty Five Thousand only) under various heads by submitting *inter-alia* that the deceased was a Peon by profession and used to earn Rs.9,000/- per month.
4. The aforesaid claim has been contested by the Non-Applicants by saying that the vehicle in question, which was owned by the Corporation, has been falsely implicated in connection with the alleged accident and the claim is, therefore, liable to be dismissed.
5. After considering the evidence led by the Claimant, it has been held by the Claims Tribunal that the alleged accident occurred on 17.02.2018 due to rash and negligent driving by the driver of the offending vehicle resulting into the sad demise of Smt. Subaran Nag and that by considering her income to the extent of Rs.6,000/- per month, awarded total amount of compensation as mentioned hereinabove.
6. The main contention as alleged herein by the learned counsel for the

Appellant is that the vehicle in question was not involved in the alleged accident and has been falsely implicated in connection with the said accident. However, from perusal of the materials available on record, particularly, the un-rebutted statement of Vijay Nayak (AW-1), who was the eye witness to the occurrence of the alleged accident, it is difficult to accept that the vehicle in question, owned by the Appellant/ Municipal Corporation Jagdalpur, has wrongly been implicated. The Claims Tribunal has, therefore, rightly arrived at a conclusion that the vehicle in question was involved in connection with the said accident and, I do not find any infirmity in the same.

7. In view of the foregoing discussions, I do not find any substance in this appeal. The appeal being devoid of merit, is hereby dismissed at admission stage itself. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
JUDGE