

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 1166 OF 2007 Division Bench

APPELLANT

✓ Oriental Insurance Co. Ltd.
Branch Office : Itwari Bazar,
Raigarh, Tehsil & District
Raigarh (C.G.)

VERSUS

RESPONDENTS
CLAIMANTS

1. Smt. Uraon, D/o Bodu @
Ghasiya, W/o Mehattar Uraon,
aged 35 years,

2. Sushil Kumar Uraon, S/o
Heeralal Uraon, aged 28 years,

Both residents of Ward No. 3,
Uraon Para, Gharghoda, Police
Station & Tehsil Gharghoda,
District Raigarh (C.G.)

OWNER

3. Pawan Kumar Agrawal,
S/o Fakirchand, R/o Lal Tanki,
Bus Stand Road, Raigarh,
Tehsil & District Raigarh (C.G.),
Office Address - Suraj Rice
Mill, Gharghoda, Police Station
& Tehsil Gharghoda, Raigarh
(C.G.)

DRIVER

4. Amar Singh, S/o Pyarelal,
R/o Village Navagaon, near
village Kudumkela, Gharghoda,
Tehsil & District Gharghoda,
District Raigarh (C.G.)

MISC. APPEAL UNDER SECTION 173 OF THE MOTOR
VEHICLE ACT, 1988

✓ Appeal valued at Rs. 3,36,000/-
✓ Affixed Court fee at Rs. 15/-

The appellant/insurance company, named above, most
respectfully begs to submit as under:



HIGH COURT OF CHHATTISGARH : BILASPUR

M. A. (C) No. 1166 of 2007

Appellant Oriental Insurance Co. Ltd.
Versus
Respondents Smt. Uraon & others

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLES ACT, 1988

DB: Hon'ble Shri I. M. Quddusi
& Hon'ble Shri Justice N. K. Agarwal, JJ

Shri Abhishek Sinha, Advocate for the appellant.

Shri Amit Sharma, Advocate for the respondent No. 1.

None for the respondents No. 2, 3 and 4.

ORDER (Oral)

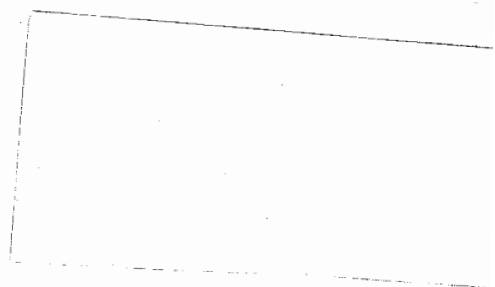
(Passed on this 30th day of September, 2010)

Per I. M. Quddusi, J.

1. This appeal, filed by the Insurance Company, arises from the award dated 23.4.2007, passed by the Motor Accident Claims Tribunal, Raigarh in Claim Case No. 150/2006, awarding total compensation of Rs. 3,36,000/- to the claimants.
2. The brief facts, in nutshell, are that on 16.8.2006, deceased Litti alias Ramkumar, along with other laborers was traveling in the vehicle - Matadoor, bearing registration No. C.G. 13-A/2709, as a labour and they were on the way to Gharghoda Rice Mill from Kudumkela in order to unload paddy. At about 6 - 7 p.m. in the evening when the vehicle reached near Faguram main road, due to rash and negligent driving of the non-applicant No.2, the vehicle turned turtle. In that accident various labours, including Litti alias Ramkumar received injuries. They were taken to the hospital. During the course of treatment Litti alias Ramkumar died on 17.8.2006 at about 2.30 a.m. in the night.



3. The claimant No.1 Smt. Uraon, being real married sister of the deceased and claimant No. 2, claiming himself brother of the deceased by way of adoption by the father of the deceased; filed a claim case for award of total compensation of Rs. 12,25,000/- under various heads.
4. Learned Tribunal having regard to the facts situation and the evidence on record, dismissed the claim of the claimant No.2, who had filed the application, posing himself as brother of the deceased, submitting that the father of the deceased had taken him on adoption. However, the Tribunal has considered the claim of the claimant No.1, whose submission was that she was a dependent of the deceased as she is his real sister. Her marriage took place with Mahettar, who is 40% disabled person and is not in a position to earn livelihood. Therefore, she was living with her brother and thus she was dependent on the deceased.
5. Learned Tribunal, taking into consideration the monthly income of the deceased as Rs. 3000/-, assessed the monthly dependency of Rs. 1500/- and yearly dependency Rs. 18,000/-. Further, the Tribunal taking into consideration the age of the deceased as 24 years and that he was unmarried, has applied the multiplier of 17 and reached to the conclusion that the claimant No.1 was entitled for compensation of Rs. 3,06,000/- towards loss of dependency. In addition, Rs. 10,000/- was awarded for pain and suffering, Rs. 10,000/- towards loss of love and affection, Rs. 5000/- towards funeral expenses and Rs. 5000/- towards loss of estate. Thus, a total compensation of Rs. 3,36,000/- was awarded along with 6% interest from the date of the application i.e. 3.10.2006.



MB

6. We have heard learned counsel appearing for the parties and perused the lower Court record.
7. Having regard to the facts situation and the age of the deceased, as well as the decision of Hon'ble Apex Court in **Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another** (2009) SCC 121, we are of the opinion that multiplier of 16 would be applicable in the case on hand.
8. There is no dispute about the income of the deceased and the loss of dependency i.e. Rs. 18,000/- per year, assessed by the Tribunal. Thus, applying the multiplier of 16, the compensation is assessed as Rs. 2,88,000/-. Further, the claimant is entitled to Rs. 5000/- towards funeral expenses. We do not consider it appropriate to grant compensation under other heads. Thus, the claimant No.1 ((Smt. Uraon) is entitled for total compensation of Rs. 2,93,000/-. We modify the impugned award accordingly. Rest of the terms and conditions of the award passed by the M.A.C.T. shall remain intact.
9. In view of the foregoing, the appeal is allowed in part. The impugned award dated 23.4.2007 is modified to the above extent.
No order as to costs.

Sd/-
I.M. Qudusi
Judge

Sd/-
N.K. Agarwal
Judge