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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT

BILASPUR (C.G.)

MISC. APPEAL (C) NO. 662 OF 2010 (D.B.)

Single Bench

APPELLANT :

(1) Virendra S/o Leelaram Verma, aged about 9 years, Minor, through his natural guardian father Leelaram S/o Dhanukram Verma, R/o Pendri Tahsil and Police Station Navagarh, District Durg (C.G.).

(Owner of the vehicle)

(2) Leela Ram S/o Dhanuk Ram Verma
Aged about 45 yrs R/o - Pendri Tah/P.S Navagarh
VERSUS Distt Durg

RESPONDENTS :

1. Smt. Seeta Bai Wife of Kunjram Sahu, aged about 35 years, Occupation Housewife.

2. Kunjram S/o Ajuram Sahu, aged about 40 years, Occupation Agriculturist.

Both R/o Village Pendri Santram, Tahsil and Police Station Navagarh, District Durg (C.G.).

(Claimants)

3. Shatruhan Lodhi S/o Dhannulal Rajput, aged about 23 years, Occupation Driver, R/o Village Bundela, Tahsil Navagar, Police Station Nandghat, District Durg (C.G.).

(Driver)

4. Rajkumar S/o Jethuram Rajput, R/o Umariya (Birora), P.S. Mungeli, District Bilaspur (C.G.).

Signature

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5. Jethuram Rajput S/o Ridharam
Rajput, R/o Village Bibada (Bidbida)
Post Sargaon, Tahsil Mungeli,
District Bilaspur (C.G.).

6. Dhanukram S/o not known,
Profession Agriculturist, R/o Village
Pendri, Police Station and Tahsil
Navagarh, District Durg (C.G.).

7. The United India Insurance Company
Limited, through Branch Office
Bilaspur (C.G.).
(Insurer)

MISCELLANEOUS APPEAL UNDER SECTION 173 OF THE MOTOR
VEHICLES ACT, 1988



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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. (C) No. 662 of 2010

APPELLANTS/
OWNER

Virendra and another.

Versus

RESPONDENTS

Smt. Seeta Bai and others.

Miscellaneous appeal under Section 173 of the Motor
Vehicles Act, 1988

(SB: Hon'ble Mr. N.K. Agarwal, J.)

Present : Mr. Malay Kumar Bhaduri and Mr. R.R. Berman, counsel for
the appellant.
None for respondents No. 1 to 6, though served.
Mr. Dashrath Gupta, counsel for respondent No.7

ORAL ORDER

(16.12.2011)

1. Heard on I.A. No.1/2010 which is an application for condonation of delay in filing the appeal.
2. On due consideration, I am satisfied that the appellant is succeeded in explaining the cause of delay in filing the appeal and, therefore, the application {I.A. No.1/2010} is allowed. Delay in filing the appeal is condoned.
3. Heard on admission.
4. This is owner's appeal against the award dated 31.7.2009 passed by Additional Motor Accidents Claims Tribunal (F.T.C.), Bemetara, Distt. Durg (for short 'the Tribunal') in Claim Case No.43/2008.
5. As against the compensation of Rs.15,35,000/- claimed by unfortunate parents of deceased Chandrashekhar Sahu @ Churamani, aged about 16 years by filing claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') for his death in the motor accident on 06.06.2008, the Tribunal awarded a total sum of Rs. 1.82.500/- to the claimants along with interest @ 6% per annum from the date of filing of claim petition till its actual payment holding the appellant No.1

and respondents No. 4 and 5 are jointly and severally liable for payment of compensation.

6. The Tribunal, on a close scrutiny of the evidence led, held : the accident had occurred due to rash and negligent driving of tractor bearing registration No. CG10/A-4531 and trolley bearing registration No. CG.10/A-2931 by its driver i.e. respondent No. 3; deceased Chandrashekhar Sahu @ Churamani died on account of injuries sustained by him in the said accident; deceased was sitting in the tractor as a gratuitous passenger, and therefore, the respondent No.7/The United India Insurance Company Limited not liable for payment of compensation; and awarded aforementioned sum as compensation to respondents No. 1 and 2/claimants.
7. Mr. Malay Kumar Bhaduri and Mr. R.R. Berman, learned counsel for appearing for the appellant while not disputing exoneration of respondent No.7/Insurance Company from its liability to pay compensation contended that the deceased was aged about, 15 to 16 years at the time of accident and, therefore, the amount of compensation of Rs.1,82,500/- awarded by the Tribunal is shockingly on higher side which deserves to be suitably reduced.
8. I have heard learned counsel appearing for the appellant and perused the impugned award.
9. Deceased Chandrashekhar Sahu @ Churamani was aged about 15-16 years at the time of accident. Claim petition was preferred by the claimants under Section 163-A of the Motor Vehicles Act. The accident had occurred in the year 2008. The Tribunal has assessed income of the deceased as Rs.15,000/- on the basis of notional income prescribed in second schedule under Section 163-A of the Motor Vehicles Act. Deducted $1/3^{rd}$ of it towards personal expenses of the deceased, applied multiplier of 15 and awarded Rs.1,50,000/- to the claimants on account of claimants' annual dependency. The Tribunal further awarded Rs.32,500/- on other heads. Thus, the Tribunal has awarded total compensation of Rs.1,82,500/- to the claimants



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along with interest @ 6% per annum from the date of filing of claim petition till its actual payment.

10. When the matter is examined in the context of above broad features of the case, in my opinion, the amount of compensation of Rs.1,82,500/- awarded by the Tribunal cannot be said to be shockingly on higher side and, therefore, in the considered opinion of this Court there is no scope for reduction of amount of compensation awarded by the Tribunal.
11. Consequently, the appeal being devoid of merit is liable to be and is hereby dismissed.
12. No order as to costs.

Sd/-
N.K. Agarwal
Judge

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