

(2018) 02 CHH CK 0258

Chhattisgarh High Court

Case No: Miscellaneous Appeal (C) No. 1139 Of 2012

Laxmi Nidhi Patel

APPELLANT

Vs

Basanti Bai Gabel And Ors

RESPONDENT

Date of Decision: Feb. 15, 2018

Acts Referred:

- Motor Vehicles Act, 1988 - Section 173

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Surfaraj Khan, Beenu Sharma, Deepali Pandey

Final Decision: Dismissed

Judgement

P. Sam Koshy, J

1. Present is an appeal filed by the owner under Section 173 of the Motor Vehicles Act assailing the award dated 27/09/2012 passed by the learned

Additional Motor Accident Claims Tribunal, Sakti, District Janjgir-Champa (C.G.) in Motor Accident Claim Case No. 18/2011.

2. Vide the impugned award, after assessing contributory negligence of 50:50 between the owners of the two vehicles involved in the accident, the

Tribunal has awarded a compensation of Rs.4,25,320/- with interest @ 7% per annum from the date of application.

3. Since, there was no insurance for the offending vehicle, the liability of payment of compensation has been fastened upon the present

appellant/owner.

4. The facts of the case in brief is that, the deceased - Sahettar Ram Gabel while traveling on a Motorcycle bearing registration No. CG-13-K- 2010

met with an accident when colliding with another Motorcycle owned and driven by the present appellant bearing registration No. CG-13-B-6895. The

Motorcycle of the present appellant was not insured. Since, there was a head on collision, the Tribunal has assessed the contributory negligence

towards both the drivers of the Motorcycles and has assessed the ratio of contributory negligence at 50:50. Though, the accident took place on

2107/2010, the deceased died only on 24/10/2010 i.e. after about 3 months time from the date of accident.

5. The solitary ground of challenge by the counsel for the appellant in the present appeal is that, the death of the deceased was not on account of the

injuries that he sustained in the accident that took place on 21/07/2010. It was further contended by the counsel for the appellant that, there was no

strong cogent evidence led by the claimants to establish direct nexus between the accidental injuries and the cause of death. He further submits that,

the fact that the deceased died a natural death also stands established from the fact that, after his treatment, he stood discharged from hospital at

Raipur on 18/10/2010 and thus prayed for setting aside of the award.

6. Perusal of record would show that, as a result of the accident, the ribs of the deceased had got fractured, so also his left cervical and radius bones

has also got fractured. Similarly, the deceased also had received fracture in his temporo perietal bone. On the date of the accident, he was admitted to

the hospital at Raigarh and because of the gravity and the grievousness of the injuries, he was shifted to Ramkrishna Hospital, Raipur where he has

undergone treatment for a period of almost three months when he was discharged only on 18/10/2010. After his discharge on 18/10/2010, the

deceased died on 24/10/2010. The date of death and the date of discharge was too short a period.

7. Considering the age of the deceased to be 65 years at the time of accident and the aforementioned injuries and further the fact that, he had been

hospitalized for a period of about 3 months and he died immediately after his discharge from the hospital, this Court has no hesitation in concluding

that, there appears to be a direct connection between the accidental injuries and the cause of death. Even though, the postmortem might not have been

conducted, but the gravity of injuries stood established from the findings of the Tribunal in paragraph-14 and also the fact that, he was in continuous treatment for a period of about 3 months at the Raipur hospital.

8. Under the circumstances, this Court does not find any strong case made out by the counsel for the appellant calling for an interference with the impugned award.

9. The appeal thus fails and is accordingly rejected.