

(2018) 02 CHH CK 0279

Chhattisgarh High Court

Case No: Miscellaneous Appeal (C) No. 287 Of 2018

National Insurance Company
Limited

APPELLANT

Vs

Anita Verma And Ors

RESPONDENT

Date of Decision: Feb. 16, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 304A
- Motor Vehicles Act, 1988 - Section 166, 173

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Dashrath Gupta

Final Decision: Dismissed

Judgement

P. Sam Koshy, J

1. Heard on I.A.No.1, which is an application for condonation of delay.
2. Finding the reasons assigned in the said application to be satisfactory, I.A.No.1 is allowed and delay of 25 days in filing the appeal stands condoned.
3. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 06/10/2017 passed by the learned Fourth Additional Motor Accident Claims Tribunal, Durg (C.G.) in Motor Accident Claim Case No. 549/2016.
4. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.12,93,480/- with interest @ 6% per annum from the date of application.

5. The counsel for the appellant submits that, the Tribunal has not properly appreciated the element of contributory negligence on part of the deceased.

Further it was contended that, the quantum of compensation awarded is also on the higher side, particularly, the calculation of future income of 50%

while quantifying the compensation so also awarding of Rs.1,05,000/- under the conventional head. He further submits that, for assessing the

contributory negligence, the evidence of the driver of the offending vehicle i.e. respondent No.6 has not been properly appreciated by the Tribunal.

6. This contention of the counsel for the appellant may not be acceptable for the reason that, the contributory negligence part cannot be established

only on the evidence of the driver of the offending vehicle who otherwise is an accused for the offence under Section 304-A of IPC and against

whom a criminal case is already pending. The obvious stand of the driver would always been what he has stated before the Tribunal, otherwise it

would prove fatal so far as the criminal case is concerned. Hence, the statement of the said respondent No.6 - the driver may not be sufficient to

establish the contributory negligence part. Thus the said ground stands negated.

7. So far as quantum of compensation is concerned, the Tribunal has considering the facts and evidence which have come on record has assessed the

income of the deceased who was a Peon in the Indu Employees Industrial Area, Bhilai which was a permanent nature of employment at Rs.5,502/-

which considering the period of accident i.e. of June-2016 cannot under any circumstances held to be either exorbitant or on the higher side so also

considering that there were total four claimants, the amount of Rs.1,05,000/- awarded under the conventional head also cannot be said to be either

exorbitant or on the higher side.

8. Thus 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 deserve to be and is accordingly rejected.