(2018) 02 CHH CK 0392

In the Chhattisgarh High Court

Case No : Miscellaneous Appeal (C) No. 601 Of 2012

National Insurance Company Limited — APPELLANT

Vs

Nirmala Bai And Ors — RESPONDENT

Date of Decision : 23-02-2018

Acts Referred:
Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2018) 02 CHH CK 0392

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : B.N. Nande, Harshal Chouhan, Samir Singh

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. Present is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 19/03/2012 passed by

the learned Motor Accident Claims Tribunal, Kabeerdham (Kavardha) (C.G.) in Motor Accident Claim Case No. 08/2009.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.2,82,600/-

with interest @ 9% per annum from the date of application.

3. The counsel for the appellant/Insurance Company submits that, the compensation awarded is on the higher side as the multiplier applied is not in

accordance with the judgment passed by the Hon'ble Supreme Court in the case of Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.

[2009 {6} SCC 121] so also the compensation under the conventional head is also on the higher side. Challenging the liability part he further submits that, the involvement of the offending vehicle in the instant case itself is doubted. He further submits that, the interest awarded by the Tribunal is also

on the higher side and thus prayed for suitable modification of the award.

4. However, perusal of record would show that, the Insurance Company as such has not led any evidence before the Court below to substantiate their

contentions. In the absence of any cogent evidence on part of the Insurance Company, the challenge to the liability part stands negated.

5. So far as the quantum of compensation and the interest part awarded is concerned, this Court considering the age of the deceased as also the

calculation which has been made does not seem to be either erroneous or contrary to the evidence which have come on record.

6. Further, an intimation before this Court was brought on record by the respondents that the respondent No.1 - the sole claimant had pending the

appeal before this Court expired and the Insurance Company on the previous date were granted to take steps for substitution. Having not done so, the

appeal deserves to be rejected on this ground also.

7. Therefore this Court does not find any strong case made out by the counsel for the Insurance Company calling for an interference with the

impugned award.

8. The appeal thus fails and is accordingly rejected.