
(2019) 03 OHC CK 0025
In the Orissa High Court
Case No : MACA No.1072 Of 2017

Ramakanta Panda And Another

APPELLANT

Vs

Sri Anil Sakore And Another

RESPONDENT

Date of Decision : 08-03-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 173(1)

Citation : (2019) 03 OHC CK 0025

Hon'ble Judges : Dr. A. K. Rath, J

Bench : Single Bench

Advocate : B. N. Rath, S. K. Das

Final Decision : Allowed

Judgement

Dr. A.K.Rath, J

1. This is a claimantsâ?? appeal under Section 173 (1) of the Motor Vehicles Act, 1988, for enhancement of the compensation amount.

2. Jayshree Panda was travelling in a motorcycle bearing registration no.OR-01K-8269, as a pillion rider. Near Narasinghpur Chhaka, a vehicle

bearing registration No.V-1073 belongs to Defence Department came in a high speed from Basudevpur side, dashed against the motorcycle, as a

result of which, she was thrown out of the motorcycle and the wheel of the offending vehicle ran over her. Immediately, she was shifted to

Basudevpur Hospital, where she succumbed to the injuries. The matter was reported to the police, whereafter, Basudevpur P.S. Case No.331 of 2013

was registered. With the factual scenario, the parents of the deceased filed application u/s.166 of the Motor Vehicles Act claiming compensation of

Rs.5,00,000/-.

3. The opposite party no.1-driver entered appearance and filed written statement denying the liability. The opposite party no.2-owner of the vehicle

also filed written statement denying the liability.

4. Stemming on the pleadings of the parties, learned Tribunal struck four issues. Parties led evidence, oral and documentary. Learned Tribunal came

to hold that due to rash and negligent driving by the driver of the offending vehicle bearing registration no.V-1073, the alleged accident occurred. Held

so, it awarded Rs.5,02,000/- and directed the owner of the vehicle to pay the same along with interest @7.5% per annum from the date of filing of the

claim application, i.e.28.12.2013.

5. Heard Mr. B.N. Rath, learned counsel for the appellants and Mr. S.K. Das, learned counsel for the respondent no.2.

6. Mr. Rath, learned counsel for the appellants submits that learned Tribunal has committed manifest error in not awarding filial consortium.

7. Per contra, Mr. Das, learned counsel for the respondent no.2 submits that the awarded amount has already been satisfied. He further submits that

the claimants had not placed any materials before the learned Tribunal for award of compensation towards filial consortium.

8. In Magma General Insurance Co. Ltd. Vrs. Nanu Ram alias Chuhru Ram and others, 2018 (4) T.A.C. 345 (SC), the apex Court went in-depth into

the matter and held that parental consortium is granted to the child upon the premature death of a parent, for loss of â??parental aid, protection,

affection, society, discipline, guidance and training.â? Filial consortium is the right of the parents to compensation in the case of an accidental death of

a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a

parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit. Consortium

is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world over have cognized that the

value of a childâ??s consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions

therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a

compensation for loss of the love, affection, care and companionship of the

deceased child. In the said case, Rs.80,000/- was awarded towards filial consortium to the parents.

9. In view of the authoritative pronouncement of this Court in the case of Magma General Insurance Co. Ltd. (supra), this Court is of the view that

further an amount of Rs.80,000/-(Rupees Eighty thousand)(consolidated) would suffice.

10. The respondent no.2 shall deposit an amount of Rs.80,000/- (Rupees Eighty thousand)(consolidated) before the learned Tribunal within a period of

four weeks, whereafter the same shall be disbursed to the claimants-respondent nos.1 & 2.

11. The appeal is allowed to the extent indicated above.

No costs.

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