

(2018) 02 CHH CK 0186

In the Chhattisgarh High Court

Case No : Miscellaneous Appeal (C) No. 1043 Of 2011

Vijeet Banerjee And Ors

APPELLANT

Vs

Nitish Kumar Shrivastava And Ors

RESPONDENT

Date of Decision : 09-02-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2018) 02 CHH CK 0186

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Amiyakant Tiwari, Chitra Shrivastava, Pallav Mishra, N.Pusty

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. Present is an owner's appeal filed under Section 173 of the Motor Vehicles Act assailing the award dated 12/10/2010 passed by the learned Additional Motor Accident Claims Tribunal, Katghora, District Korba (C.G.) in Motor Accident Claim Case No. 372/2007.

2. The facts of the case in brief is that, on 05/11/2000, the deceased- Abhishek Shrivastava while driving the Motorcycle-Kinetic Luna bearing registration No. MP-26-GA-5627 dashed with another Motorcycle coming from the opposite direction bearing registration No.MP-57-B-3084. As a result of the said accident, the deceased-Abhishek Shrivastava died on the spot whereas the pillion rider- Nitish Kumar Shrivastava suffered injuries. The said Nitish Kumar Shrivastava filed the claim application seeking compensation which stood allowed vide the impugned award dated 12/10/2010 and it was ordered that the claimants will be entitled for a compensation of Rs.61,000/- after deducting 50% of the total compensation assessed at Rs.1,22,000/- with interest @ 6% per annum and penal interest of 9% in case the amount is not deposited promptly.

3. The counsel for the appellants submits that, the finding of contributory

negligence assessed by the Tribunal is bad in law and the same deserves to be set aside. Infact it ought to have been held that the accident did occurred at the behest of the deceased-Abhishek Shrivastava and not from the vehicle belonging to the present appellants driven by the deceased-Suparna Banerjee.

4. Having heard the contentions put forth by the counsel for the appellants and on perusal of record, this Court does not find any strong case made out by the counsel for the appellants to hold that the finding of contributory negligence by the Tribunal to be either erroneous or perverse and therefore the same deserves to be and is accordingly rejected.