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HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B: Hon'ble Shri Prashant Kumar Mishra M.A. No. 715/2001

APPELLANTS

Smt. Sudharani Devangan and others

Versus

RESPONDENTS

Manmohan and others

Appearance:

Shri Indrasen Sahu, counsel for the appellants. Shri Sourabh Sharma, counsel for respondent No.4. None for other respondents.

ORAL ORDER (20.08.2010)

This appeal has been preferred by the legal heirs of the injured claimant for enhancement of the amount of compensation. The said claimant had suffered injuries in an accident on 25/05/1992. During pendency of the claim petition, the injured Venugopal died on 8/11/1999 and the present appellants were substituted as his legal heirs.

- (2) The claims tribunal, after enquiry, has awarded Rs.40,570/- as compensation to the present appellants/claimants.
- (3) Counsel for the respondent No.4 submits that since the claim petition was preferred by the injured, after death of the injured, the appellants as legal heirs are not entitled to compensation on any other head except on the head of loss of estate of the deceased. He relies upon a Full Bench judgment of M.P. High Court in the matter of Bhagwatibai and another Vs. Bablu alias Mukund and others,

2006 (3) JLJ 379 and Division Bench judgment of this court in the matter of Dilesh Kumar and others Vs. Mahendra Pal Singh and others in MA No. 1269/1996.

- Mukund and others (supra), the Full Bench of M.P. High Court, after relying on the Supreme Court decision in Melepurath Sankunni Ezhuthassan Vs. Thekittil Geopalankutty Nair, AIR 1986 SC 411 has held that by virtue of the principle incorporated in section 306 of the Indian Succession Act, 1925, the legal representatives of a deceased, who suffers personal injury in a motor socident and who dies subsequently for some other reason, cannot prosecute or continue to prosecute an application for compensation under sub-section (1) of section 166 of the Motor Vehicles Act.
- (5) In para 13 of the report, the Full Bench, after referring to section 1 of the Legal Representatives Suit Act, 1855 has held that the legal representatives of any deceased person can maintain an action for any wrong committed in the lifetime of such deceased person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death and the damages when recovered shall be part of the personal estate of such person. It is further held therein that it is by virtue of this provision in section 1 of the Legal Representatives Suits Act, 1855, that the legal representatives of the deceased person can also

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- maintain or continue to maintain an application for compensation for personal injuries suffered in the lifetime of such person in a motor accident which has occasioned pecuniary loss to the estate for which such person might have filed an application for compensation under section 166 (1) of the Motor Vehicles Act, 1988.
- (6) In view of the law laid down by the Full Bench of the M.P. High Court and this court in the above mentioned judgments, this court would hold that the present appeal for enhancement of the award amount is not maintainable for claiming any amount which is not falling under the head loss of estate of the deceased. The claims tribunal has already awarded Rs.40,570/- to the appellants. There is no scope for enhancement of the award amount on the head loss of estate, therefore the instant appeal fails and is hereby dismissed.

Sd/-Prashant Kumar Mishra Judge

