

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal (C) No.572 of 2006**

Purshottam S/o Late Shri Pila Ram 12 years Minor through Mother & Natural Guardian Smt. Lachani Wd/o Late Pila Ram R/o Village Usaribeda Lohandiguda PS and Tehsil Jagdalpur District Bastar Chhattisgarh

---- Appellant**Versus**

1. Arjun S/o Lakhmu Gond R/o Village Takraguda Lohandiguda Tehsil Jagdalpur District Bastar Chhattisgarh
2. Bhola Jha @ Indradev Jha S/o Sadanand Jha Contractor R/o Rajendranagar Ward Olad Sharab Bhatti Road Jagdalpur District Bastar Chhattisgarh
3. The Oriental Insurance Company Limited through Branch Manager Sadar Road Jagdalpur Chhattisgarh

---- Respondents**Miscellaneous Appeal (C) No.141 of 2007**

1. Smt. Lachani Wd/o Late Pilaram 30 years
2. Purshottam S/o Late Shri Pilaram 12 years Minor through Mother & Natural Guardian Smt. Lachani Wd/o Late Pila Ram
3. Botiram S/o Sukta 55 years
4. Smt. Kamla W/o Botiram 50 years

All R/o Village Usaribeda Lohandiguda PS and Tehsil Jagdalpur District Bastar Chhattisgarh

---- Appellants**Versus**

1. Arjun S/o Lakhmu Gond R/o Village Takraguda Lohandiguda Tehsil Jagdalpur District Bastar Chhattisgarh
2. Bhola Jha @ Indradev Jha S/o Sadanand Jha Contractor R/o Rajendranagar Ward Olad Sharab Bhatti Road Jagdalpur District Bastar Chhattisgarh
3. The Oriental Insurance Company Limited through Branch Manager Sadar Road Jagdalpur Chhattisgarh

---- Respondents

For Appellant	: None.
For Respondent/Insurance Company	: Shri Vinay Harit, Senior Advocate with Shri Azad Siddiqui, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

04/11/2016

1. Both the appeals are disposed of by this common judgment since they arise out of one award passed by the Second Additional Motor Accident Claims Tribunal, Bastar at Jagdalpur (in short 'the Tribunal') on 17.8.2006, whereby the Tribunal awarded compensation of Rs.5000/- only in Claim Petition No.9 of 2004 and Rs.2,36,960/- in Claim Petition No.10 of 2004. The only issue involved in these cases is with regard to the enhancement of compensation, therefore, it is not necessary to give other facts in detail.
2. MAC No.572 of 2006 arises out of Claim Petition No.9 of 2004 which is an injury case and MAC No.141 of 2007 arises out of Claim Petition No.10 of 2004 which relates to death of Pilaram. Claimant- Purshottam in both the cases stated that he alongwith his father- Pilaram were travelling on a Moped. This Moped met with an accident with Truck bearing registration number CG-17/ZC/0797, which was being driven by Arjun in a rash and negligent manner. As a result of the accident, Purshottam sustained injuries and Pilaram died on the spot as a result of injuries sustained.
3. As far as MAC No.572 of 2006 is concerned, there is no dispute that Purshottam sustained injuries. The documents on record show that he was admitted in hospital for one day and was diagnosed with having fracture. It is found that there is no disability but undoubtedly Purshottam suffered fracture. He obviously would have been unable to do any work about 6-8 weeks. The award of Rs.5000/- is very much on the lower side. There is little

evidence with regard to the expenses but even so I find that the bills produced on record clearly indicated expenses of Rs.1500/-.

4. Keeping in view the facts and circumstances of the case, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.5000/- to Rs.20,000/-. The claimant shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount.

5. As far as MAC No.141 of 2007 is concerned, in this case, deceased Pilaram was stated to be an agriculturist and also plying a boat and it was claimed that he earning Rs.5000/- per month. However, the Learned Tribunal took his income as Rs.70/- per day. The accident took place in the year 2004 and it is impossible to believe that a grown up able bodied person would only earn Rs.70/- per day. Even a labourer would earn Rs.100/- per day. Therefore, the income of the deceased is assessed as Rs.100/- per day i.e. Rs.3000/- per month.

6. The deceased was aged about 30-35 years and therefore, 30% is to be added to his income for future prospects i.e. Rs.900/- per month. Therefore, the total income of the deceased would be assessed as Rs.3900/- per month. The deceased left behind his wife, minor child and parents, therefore, I deduct 1/3rd for the personal expenses of the deceased and after deducting the same, the dependency of the family is assessed at Rs.2600/- per month i.e. Rs.31,200/- per annum. Since the deceased was aged between 30-35 years, the relevant multiplier as per **Sarla Verma (Smt.) and Others v. Delhi Transport Corporation and another, (2009) 6 SCC 121**, would be 16 and the compensation for loss of dependency on this count works out to Rs.4,99,200/-, which is rounded off to Rs.5,00,000/-.

7. The widow is also awarded Rs.50,000/- for loss of consortium and Rs.20,000/- awarded for funeral expenses and other post death expenses.

Therefore, the total compensation works out to Rs. (5,00,000 + 50,000 + 20,000) = Rs.5,70,000/- (rupees five lakh seventy thousand).

8. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.2,36,960/- to Rs.5,70,000/-, i.e. by Rs.3,33,040/-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount.

9. Needless to say that the Insurance Company shall be entitled to deduct/adjust the amount, which it already paid to the claimants. The compensation so awarded is apportioned as follows:-

Smt. Lachani (Widow)	Rs.2,70,000/-
Purshottam (Son)	Rs.1,50,000/-
Smt. Kamla (Mother)	Rs.1,00,000/-
Botiram (Father)	Rs.50,000/-

10. The appeals are disposed of in the aforesaid terms.

Sd/-
(Deepak Gupta)
Chief Justice