

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 773 of 2006**

1. Nikodim Kindo s/o Alfons Kindo, age 55 years, Occupation – Agriculture.
 2. Smt. Kursila Devi w/o Shri Nokodim Kindo, age 53 years
- Both by caste – Uraon, r/o village Karanjtoli, Tehsil Jashpur, District Jashpur, C.G.

---- Appellants/Claimants**Versus**

1. Dhanraj Yadav s/o Shivkaran Yadav, aged about 40 years, Occupation Business, r/o village Arvad Via Nasirabad, Distt. Ajmer, Rajasthan.
2. The New India Insurance Company Limited, Local Branch Office Raigarh, Distt. Raigarh, C.G.

---- Non-applicants/Respondents

For Appellants	:Shri Rishi Mahobia, Advocate
For Respondent No.2	:Shri Dashrath Gupta, Advocate

Hon'ble Shri Justice Sanjay Agrawal**Award On Board****18/11/2016**

1. This is the claimants' appeal filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act of 1988') against the award dated 10.04.2006 passed by the Motor Accidents Claims Tribunal, Jashpur, in claim case No. 43/2005 whereby a total amount of compensation to the tune of Rs.1,44,600/- with interest @ 6% per annum has been awarded.
2. Brief facts of the case are that on 28.04.2005 at 5.30 pm when deceased – Pramod Kindo, aged about 20 years was unloading the marble from the offending

vehicle bearing its registration No. RJ-01-G-5804, the driver of the offending vehicle tried to park the vehicle ahead and in that process, marble lot fell on the deceased, as a result of which the deceased died on the same day. The claimants, being legal representatives of the deceased Pramod Kindo, preferred a claim petition under Section 166 of the Act of 1988 praying for total compensation to the tune of Rs.32,20,000/-

3. The respondents contested the aforesaid claim while submitting that the deceased himself was responsible for accident, and therefore, the claimants are not entitled to claim any amount of compensation.

4. Upon hearing the parties, the Claims Tribunal by its impugned award dated 10.04.2006 has held that the said accident occurred when the truck was being driven rashly and negligently by its driver, as a result which, the deceased Pramod Kindo has died when he was unloading the marble. It assessed the income of the deceased as Rs.900/- per month and that by applying the multiplier of 12, has awarded total compensation of Rs.1,44,600/- with interest @ 6% per annum from the date of application till its realisation.

5. Shri Rishi Mahobia, learned counsel for the appellants submitted that the amount of compensation awarded by the Claims Tribunal is on lower side and ought to have been enhanced. He placed his reliance upon ***Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*** and ***Rajesh and others vs. Ranbir Singh and others, (2013) 9 SCC 54.***

6. On the other hand, Shri Dashrath Gupta, learned counsel for respondent No.2/insurance company submitted that the Claims Tribunal has rightly awarded the amount of compensation, and therefore, it does not require to be interfered.

7. I have heard learned counsel for the parties and perused the entire record carefully.

8. The accident occurred in the year 2005, precisely on 28.04.2005 at 5.30 pm. The monthly income as assessed by the Tribunal was certainly on lower side and in fact it ought to have been assessed at least Rs.3000/- per month. Since the deceased was a self-employed person, therefore, in view of the principles laid down in **Rajesh and others vs. Ranbir Singh and others** (supra), future income prospects to the extent of 50% is required to be taken into consideration. Considering the principles laid down in the above case, the monthly income would be at Rs.4,500/- and by deducting half of it towards his personal expenses, then monthly dependency would come to Rs.2,250/-, yearly Rs.27,000/-. In view of the principles laid down in the matter of **Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and another** (supra), the multiplier ought to have been 18, looking to the age of deceased, who was 20 years old at the time of accident. Therefore, by applying multiplier of 18 on the yearly dependency income of Rs.27,000/-, the amount of compensation worked out to be Rs.4,86,000/-. Since the Tribunal has awarded insufficient amount towards funeral expenses to the tune of Rs.5,000/- only., Therefore, I enhance the same from Rs.5,000/- to Rs.10,000/-. However, as far as the expenses of Rs.10,000/- as awarded towards mental agony is concerned, it does not require to be modified. Thus, the claimants are entitled to get total amount of compensation at Rs.5,06,000/-.

9. The appellants are thus entitled to get a total sum of Rs.5,06,000/- inclusive of interest @ 6% per annum, over and above the amount of compensation awarded by the Tribunal, i.e., 6% interest per annum on Rs.3,61,400 (Rs.5,06,000/- - Rs.1,44,600/-) from the date of claim petition dated 05.05.2005 till its realisation. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

10. Respondent No.2/the New India Insurance Company Limited is granted three months' time to deposit the enhanced amount of compensation with interest before the concerned Claims Tribunal.

11. The appeal is allowed partly in the above-mentioned modification. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge

Anjani