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HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1243 of 2009**

Omprakash, S/o. Ramji Sahu, aged about 31 years, R/o. Village Soram (Bhatga), Tahsil and District Dhamtari, Chhattisgarh

---- Appellant**Versus**

1. Pramila Bai, W/o. Tikuram, aged about 43 years,
2. Tikuram, S/o. Chamruram, aged about 46 years,
Both are R/o. Rambag Dhamtari, District Dhamtari, Chhattisgarh
3. Rekhram @ Toran, S/o. Dukalu Ram, R/o. Village Khapri, Post Arjuni, Tahsil and District Dhamtari, Chhattisgarh
4. Branch Manager, Reliance General Insurance Company Ltd. Lalganga Shopping Complex, G.E. Road, Raipur, Tahsil and District Raipur, Chhattisgarh

----Respondents**MAC No. 62 of 2010**

1. Pramila Bai, W/o. Tikuram, aged about 43 years,
2. Tikuram, S/o. Chamruram, aged about 46 years,
Both are R/o. Rambag Dhamtari, District Dhamtari, Chhattisgarh

---- Appellants**Versus**

1. Rekhram @ Toran, S/o. Dukalu Ram Sahu, R/o. Village Khapri, Post Arjuni, Tahsil and District Dhamtari, Chhattisgarh
2. Omprakash, S/o. Ramji Sahu, aged about 31 years, R/o. Village Soram (Bhatgaon), Tahsil and District Dhamtari, Chhattisgarh
3. Branch Manager, Reliance General Insurance Company Ltd. Lalganga Shopping Complex, G.E. Road, Raipur, Tahsil and District Raipur, Chhattisgarh

----Respondents

For Appellant	:	Mr. Varunendra Mishra, Advocate
For respective Respondents	:	Dr. Sanjeet Sharma, Advocate
		Mr. Sourabh Sharma, Advocate
		Mr. Abhishek Saraf, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/10/2017**

1. These are two appeals challenging the same award dated 30.07.2009, passed by the Motor Accident Claims Tribunal, Dhamtari, Chhattisgarh, in Claim Case No. 18/2008.
2. Vide the said impugned award, the Tribunal has in a death case awarded a compensation of Rs.51,500/- with interest @ 6% per annum from the date of application.
3. MAC No. 1243/2009 is an appeal preferred by the owner, challenging the liability of payment of compensation fastened upon the owner. MAC No. 62/2010 is an appeal by the claimant seeking enhancement of the compensation awarded on the ground that the compensation awarded is unreasonably low.
4. So far as the appeal of the owner is concerned, the counsel for the owner/appellant submits that it is a case that the appellant had a license to drive the motorcycle, but he did not have a valid license to drive the Tractor and only on this ground the Tribunal should not have exonerated the Insurance Company of its responsibility and that at best the Tribunal should have ordered for pay and recovery. Having not done so, the impugned award deserves to be suitably modified.
5. So far as the appeal by the claimant is concerned, it was the contention of the counsel for the appellant that the deceased in the instant case was aged around 11 years and as per the judgment of the Hon'ble Supreme Court in the case of ***"Kishan Gopal and another vs. Lala and others, reported in 2014 (1) SCC 244***, the compensation deserves to be enhanced.
6. As regards the appeal by the owner is concerned, this Court is of the opinion that the Insurance Company in the instant case has led

evidence particularly that of the witness from the R.T.O. office, who has deposed before the Tribunal in respect of the driver of the offending vehicle having a license to drive a motorcycle and that he did not have license to drive the Tractor.

7. The said evidence which has been led by the Insurance Company is sufficient to establish the fact that there is a clear breach of policy condition, whereby the owner is not supposed to hand over the vehicle to a person not having a license to drive the vehicle. Thus, the finding of the Tribunal cannot be held to be bad in law. The appeal of the owner thus fails and is accordingly dismissed.
8. So far as the appeal of the claimant is concerned, the admitted fact from the perusal of the record is the date of accident being 26.10.2007, that in the said accident, the deceased Bhupendra Sonkar having died from the said accident and the said deceased was aged about 11 years.
9. So far as compensation being awarded in the case of a minor is concerned, the Hon'ble Supreme Court in the case of "Kishan Gopal" (supra) has clearly laid down that when it is a case of minor, the calculation of compensation ought to be done taking the notional income of the deceased to be Rs.30,000/- and the multiplier to be applied would be 15.
10. This Court has no hesitation in applying the said principles laid down in the said judgment in the facts of present case as well. Thus, this Court is of the opinion that the claimant is entitled for compensation accepting the notional income of the deceased at Rs.30,000/- and applying the multiplier of 15, which comes to Rs.4,50,000/- with an additional Rs.50,000/- as the compensation under conventional

head. Thus, the total compensation payable would be Rs.5,00,000/-, instead of Rs.51,500/- as awarded by the Tribunal. It is ordered accordingly. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

11. As a result, the appeal of the owner stands dismissed and the appeal of the claimant stands allowed.

Sd/-
(P. Sam Koshy)
Judge

Ved