

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1481 of 2009**

1. Itwaru Ram S/o Tiru Ram Gawde, aged about 32 years
2. Smt. Geeta Bai W/o Itwaru Ram, aged about 30 years

Both by caste Gond and both are resident of village Penwari, PS & Tahsil Bhanupratappur, District North Baster Kanker (CG)

---- Appellants**Versus**

1. Rakesh Sahu S/o Tilak Ram Sahu, aged about 21 years, caste Teli, R/o village Nayapara, Antagarh, PS & Tahsil Antagarh, District North Baster Kanker (CG)
2. Somnath Uike S/o Bajjuram Uike, aged about 28 years, caste Gond, R/o village Lompuri, PS & Tahsil Antagarh, District North Baster (CG)
3. The New India Insurance Company Limited, Branch Office Sparsh Automobiles, B.L.T.D, Raipur (CG)

---- Respondents

For Appellants	:	Shri Manoj Mishra, Advocate
For Respondents 1 & 2	:	Shri Amit Kumar Sahu, Advocate
For Respondent no.3	:	Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14/09/2017**

Present is a claimants appeal under Section 173 of the Motor Vehicles Act assailing the award dated 23.06.2009 passed in Claim Case No.2/09 by the Additional Motor Accident Claims Tribunal (FTC) Bhanupratappur, District North Bastar, Kanker (CG).

2. It is a case where the deceased namely Deepansu Gawde, aged around 6 years, met with an accidental death on 10.09.2008 while crossing the road being hit by a Maruti Van bearing registration No. CG 04 HA 1656. The parents had filed a claim case under Section 163A of the MV Act seeking

for compensation. The Tribunal considering the facts and circumstances of the case awarded a compensation of Rs.52,000/- with interest @ 6% per annum.

3. It is this award which is under challenge in the present appeal.

4. Counsel for the appellants submits that the compensation awarded in the instant case is unreasonably low particularly the fact that it is a case where the parents have lost their only child. He referred to the decision of the Supreme Court in the cases of Lata Wadhwa Vs. State of Bihar reported in (2001) 8 SCC 197 and Kishan Gopal and another Vs. Lala and others reported in (2014) 1 SCC 244 and prayed for the amount being suitably enhanced.

5. Counsel for the Insurance Company however opposing the appeal submits that it is a case where the age of the deceased was only 10 years at the time of accident and the claimants are the parents. He submits that keeping in view all these facts, the award passed by the Tribunal is just and reasonable and the same does not warrant interference. Thus, prayed for rejection of the appeal.

6. Having considered the facts and circumstances of the case particularly the fact that the deceased was aged around 6 years at the time of accident and the only child of the claimants, this Court is inclined to follow the principles of law laid down by the Supreme Court in the case of Lata Wadhwa (supra) as also in the case of Kishan Gopal (supra). In the case of Kishan Gopal, the Supreme Court, in a case of death that took place in the year 1992 had accepted the notional income of a 10 years old child at Rs.30,000/-. Applying the same analogy, this Court is inclined to accept the notional income of the deceased in the instant case also for an accident that took place about 16 years thereafter i.e. in the year 2008 and intends to pass an award suitably. Accepting the notional income of the deceased to be Rs.30,000/- if 1/3rd of the

said amount is deducted towards personal expenses, the net amount comes to Rs.20,000/-. If the said amount is multiplied by applying the multiplier of 15 as per the Schedule which is applicable in a claim case under Section 163A of MV Act, it brings to Rs.3,00,000/-. Further this Court is also inclined to provide the funeral expenses of Rs.2,000/- as also Rs.2,500/- for the loss of estate as per the Schedule. Accordingly, the claimants shall be entitled for a total compensation of Rs.3,04,500/- in stead of Rs.52,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE