

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 72 of 2006**

1. Smt. Phoolmati Bai, aged about 35 years, W/o Raghuveer Prasad Patel
 2. Raghuveer Prasad Patel, aged about 40 years, S/o Kirtan Lal Patel.
- Both R/o village Hardidih Kunwapara, Post Office Eramsahi, P.S./
Seepat, Tahsil Seepat, District Bilaspur (CG)

---- Appellants**Versus**

1. Shri Satyanarayan Pandey S/o Vyas Narayan Pandey, R/o village Bandhuwapara, Post Kodia, P.S. & Tahsil Seepat, District Bilaspur (CG)
- 2.a. Smt. Binda Devi D/o late Ram Jivan Pandey, R/o village Khapari, Takhatpur, Tahsil Takhatpur, District Bilaspur (CG)
- 2.b. Smt. Rajeshwari D/o late Shri Ram Jivan Pandey, R/o Kishore Nagar, Bilaspur, Tahsil & District Bilaspur (CG)
- 2.c. Smt. Rama Bai D/o late Shri Ram Jivan Pandey, R/o Sankargarh, Sahdol.
- 2.d. Smt. Shyama Bai D/o late Shri Ramjivan Pandey, R/o Nayapara, Golbazar, Raipur (CG)
3. The United India Insurance Company Limited, through Divisional Manager, Divisional Office – Bilaspur, Tahsil & District Bilaspur (CG)

---- Respondents

For Appellants	:	Shri Pawan Kesharwani, Advocate
For Respondent No.3	:	Shri Hari Bhagat Agrawal, Sr. Advocate along with Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/09/2017**

The present is an appeal under Section 173 of the Motor Vehicles Act preferred by the claimants seeking enhancement of the award passed on 24.12.2005 by the 8th Additional Motor Accident Claims Tribunal, Bilaspur

(CG) in Claim Case No. 68/2004. Vide the impugned award the Tribunal in a proceeding under Section 166 of MV Act has awarded compensation of Rs.1,64,500/- to the claimants with interest @ 8% from the date of application.

2. The case of the appellants in brief is that their 15 years old son namely Rohit Kumar met with an accidental death on 16.05.2002. The appellants had filed a claim case under Section 166 of the MV Act and the Tribunal vide impugned award has granted them compensation to the tune of Rs.1,64,500/- with interest @ 8% from the date of application.

3. Counsel for the appellants submits that the amount of compensation awarded is unreasonably on the lower side and that the notional income of 15,000/- which has been calculated by the Tribunal is erroneous. He submits that the present case would be governed by the decision of the Supreme Court in the case of **Kishan Gopal and another Vs. Lala and Others** reported in **(2014) 1 SCC 244** which clearly lays down the principles and guidelines while dealing with the case where the deceased and the injured were minor.

4. Counsel for the appellants further submits that admittedly, in the instant case also, the deceased Rohit Kumar, at the time of accident, was aged around 15-16 years. The date of accident in the instant case is of the year 2002. He submits that the notional income as per the judgment of the Supreme Court in the case of Kishan Gopal (supra) ought to have been Rs.30,000/- yearly. But in the instant case, it is only Rs.15,000/- which has been taken by the Tribunal which is not proper and justified and for all practical purposes it ought to have been Rs.30,000/- as has been held by the Supreme Court in the aforesaid judgment.

5. Counsel appearing for the Insurance Company, however, opposes the appeal and submits that taking into consideration the date of accident and the date of award, the subsequent judgment of the Supreme Court in the case of

Kishan Gopal may not be applicable in the instant case and the impugned award passed by the Tribunal is just and reasonable. Thus, prayed for rejection of appeal.

6. Since the facts of the case so far as the accident, the age of the deceased, the liability of the Insurance Company are not in dispute, this Court is refraining itself from narrating the entire facts again. Since the deceased Rahit Kumar admittedly was a minor aged about 15-16 years at the time of accident, this Court has no hesitation in reaching to the conclusion that the principles as have been laid down by the Supreme Court in the case of Kishan Gopal would be squarely applicable in the facts of the present case. Accordingly, applying the notional income of Rs.30,000/- yearly, if we multiply the same by applying the multiplier of 16, the amount payable to the claimants under the loss of dependency would be Rs.4,80,000/-. If we add another Rs.50,000/- under the conventional head, the amount would be Rs.5,30,000/-. Thus, it is ordered that the appellants shall be entitled for a compensation of Rs.5,30,000/- in stead of Rs.1,64,500/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.

7. The appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE