

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 199 of 2011**

1. Rajkumar Sahu S/o late Sukhiram Sahu, aged about 38 years, R/o village Navatsiya, PS Jamul, Tahsil and district Durg (CG)
2. Smt. Samay Bai Sahu W/o Shri Raj Kumar Sahu, R/o village Navatsiya, PS Jamul, Tahsil and district Durg (CG)

---- Appellants**Versus**

1. Krishna Sahu S/o Bisauha Sahu, aged about 24 years, R.o Laxmipara, Jamul, PS Jamul, Tahsil and District Durg (CG)
2. Ramvriksha Yadav S/o Vindhyachal Yadav, aged about 45 years, R.o Balajinagar, Khursipar Zone-2, Bhilai, PS Khursipar, Tahsil and District Durg (CG)
3. The Manager, I.C.I.C.I. Lombard General Insurance Company Ltd. ICICI Bank Tower Bandra Kurma Complex, Mumbai 400051

Divisional Manger, ICICI Lombard General Insurance Company Limited, Lalganga Shoping Complex, Road 34, third Floor Raipur, District Raipur (CG)

Branch Manager I.C.I.C.I. Lombard General Insurance Company Ltd. Pukheraj Complex, Above the State Bank of Indore, Station Road, Durg, District Durg (CG)

---- Respondents

For Appellants	:	Shri Avinash Chand Sahu, Advocate
For Respondent no.3	:	Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05/12/2017**

Heard on I.A. No.01, application for condonation of delay in filing the appeal.

2. Finding the reasons assigned in the said application to be satisfactory, I.A. No.01 is allowed and the delay in filing the appeal stands condoned.

3. Present is a Claimants' appeal under Section 173 of the Motor Vehicles Act assailing the award dated 29.11.2008 passed by the 9th Additional Motor Accident Claims Tribunal (FTC), Durg (CG) in Claim Case No. 88 of 2007. Vide the impugned award the Tribunal in a death case of a 16 years old girl student Ku. Shalini under Section 166 of the MV Act has awarded compensation of Rs.1,24,500/- with interest @ 6% per annum.

4. Counsel for the appellant submits that taking into consideration the facts and circumstances of the case particularly the age of the deceased, the compensation awarded is too meager an amount and the same deserves to be suitably enhanced.

5. Counsel for the Insurance Company, however, opposing the appeal submits that it is a case where the Tribunal has rightly assessed the compensation based on the evidence which has come on record and there is no scope of enhancement. Thus, prayed for rejection of the appeal.

6. Having considered the contentions put forth on either side and on perusal of the recored, the undisputed facts are the date of accident, the resultant death of Ku. Shalini, a 16 years old student, the vehicle involved in the accident i.e. a truck bearing registration No. CG 07-C-6422 owned by respondent no.2 and driven by respondent no.1 at the time of accident. It is also not in dispute that the said vehicle was duly insured by respondent no.3 Insurance Company. The only issue to be considered is whether the amount of compensation awarded is just and reasonable or not.

7. At this juncture, it would be relevant to refer to the decision of the Supreme Court in the case of **Kishan Gopal and another Vs. Lala and others** reported in **(2014) 1 SCC 244** wherein in a case of death of a minor child, the Supreme Court has fixed the notional income at Rs.30,000/- and

applied the multiplier of 15 making the compensation towards loss of dependency at Rs.4,50,000/-. In addition, an amount of Rs.50,000/- under the conventional head was also granted making the total compensation at Rs.5,00,000/-.

8. Applying the same principle and analogy, this Court is also inclined to enhance the compensation payable to the claimants herein in similar terms and quantifies the compensation at Rs.4,50,000/- towards loss of dependency and Rs.50,000/- under the conventional head. Thus, the claimants in the instant case shall be entitled for a total compensation of Rs.5,00,000/- in stead of Rs.1,24,500/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.

9. The appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE