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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 595 of 2015

(Arising out of common judgment/order dated 24.1.2015 in Claim Case Nos.65/2014, 66/2014 & 96/2014 passed by Second Additional Motor Accident Claims Tribunal, Bilaspur)

1. Munni Bai Vishwakarma And Anr. W/o Kamlu Vishwakarma Aged About 47 Years

2. Kamlu Vishwakarma S/o Manglu Ram Vishwakarma Aged About 49 Years

   Both are R/o Behind Uslapur White House, Police Station Chakarbhatha, Tahsil And District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Jitendra Prajapati S/o Kush Prajapati Aged About 24 Years R/o Khongapani, Police Station Ledri District Korea Chhattisgarh

   (Driver of alleged truck bearing registration C.G.-04-JA-4756)

2. Rajaram Pandey S/o Kailash Pandey Aged About 47 Years R/o Bijuri Mines Colony, Qtr. No. 359, Anuppur, Police Station Anuppur, Tahsil And District Anuppur M.P.

   (Owner of alleged truck bearing registration C.G.004-JA-4756)

3. Shriram General Insurance Company Limited Through Head Branch, Branch Office, E-8, Rico Industrial Area Sitapur, Jaipur (Rajasthan)

   (Insurer of alleged truck bearing registration C.G.-04-JD-4756)

---- Respondent

And

MAC No. 593 Of 2015

1. Chameli Bai W/o Bhoop Singh Gandharva Aged About 37 Years

2. Bhoop Singh Gandharva S/o Late Suklal Gandharva Aged About 40 Years

   Both are R/o Through : Santosh Patel, Ganesh Chowk Chingrajpara, Police Station Sarkanda, Tahsil And District-Bilaspur, Chhattisgarh

---- Petitioner

Vs

1. Jitendra Prajapati S/o Kush Prajapati Aged About 24 Years R/o Khongapani, Police Station Ledri, District-Korea, Chhattisgarh

   (Driver of alleged truck bearing registration C.G.-04-JA-4756)

2. Rajaram Pandey S/o Kailash Pandey Aged About 47 Years R/o Bijuri Mines Colony, Qtr. No. 359, Anuppur, Police Station Anuppur, Tahsil And District-Anuppur, Madhya Pradesh

   (Owner of alleged truck bearing registration C.G.-04-JA-4756)

3. Shriram General Insurance Company Limited, Through : Head Branch, Branch Office, E-8, Rico Industrial Area, Sitapur, Jaipur (Rajasthan)

   (Insurer of alleged truck bearing registration CG-04-JD-4756)

---- Respondent

And

MAC No. 594 Of 2015

1. Smt. Basanti Bai Gandharva Wd/o Late Shanker Gandharva Aged About 28 Years

2. Ku. Lalita Gandharva D/o Late Shanker Gandharva Aged About 10 Years

3. Ku. Lata Gandharva D/o Late Shanker Gandharva Aged About 8 Years

4. Manoj Gandharva S/o Late Shanker Gandharva Aged About 6 Years

5. Dinesh Gandharva S/o Late Shanker Gandharva Aged About 3 Years

6. Juglal Gandharva S/o Late Mangal Gandharva Aged About 65 Years

   No.2 to 5 are minor through natural guardian mother Smt. Basanti Bai Gandharva

   All are R/o Infront Of Sarkanda Police Station, Ramnagar, Chingrajpara, Police Station Sarkanda, Tahsil And District-Bilaspur, Chhattisgarh

---- Petitioner

Vs

1. Jitendra Prajapati S/o Kush Prajapati Aged About 24 Years R/o Khongapani, Police Station Ledri, District-Korea, Chhattisgarh

   (Driver of alleged truck bearing registration No CG.-04-JA-4756)

2. Rajaram Pandey S/o Kailash Pandey Aged About 47 Years R/o Bijuri Mines Colony, Qtr. No. 359, Anuppur, Police Station Anuppur, Tahsil

And District-Anuppur, Madhya Pradesh

(Owner of alleged truck bearing registration CG-04-JA-4756)

3. Shriram General Insurance Company Limited, Through : Head Branch, Branch Office, E-8, Rico Industrial Area Sitapur, Jaipur, Rajasthan

(Insurer of alleged truck bearing registration C.G.-04-JD-4756)

---- Respondent

For Appellants	Mr. Anil Gulati, Advocate
For Respondent /Insurance Company	Mr. S.S. Rajput, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Order On Board By

Prashant Kumar Mishra, J.

13/9/2017

1. Heard.

2. These three miscellaneous appeals have been preferred by the respective claimants seeking enhancement of the amount of compensation awarded by the Motor Accident Claims Tribunal.

3. In MAC No.593 of 2015, appellants Chameli Bai and Bhoop Singh Gandharva are the parents of deceased Mohan Singh; in MAC No.594 of 2015, appellant No.1 Smt. Basanti Bai is the widow of deceased Shankar Gandharva, whereas, appellant No.2 Ku. Lalita Gandharva, appellant No.3 Ku. Lata Gandharva, appellant No.4 Manoj Gandharva, appellant No.5 Dinesh Gandharva are the minor sons and daughters respectively and appellant No.6 Juglal Gandharva is the father of deceased Shankar Gandharva; and in MAC No.595 of 2015, appellant No.1 Munni Bai

Vishwakarma and appellant No.2 Kamlu Vishwakarma are the parents of deceased Umesh Lohar.

4. The deceased persons were travelling on a motorcycle on 15.11.2013, when they were hit by the offending vehicle bearing Truck No.CG-04-JA-4756, as a result of which, they died immediately after the accident.

5. The Claims Tribunal has held the Insurance Company responsible for satisfying the award and there being no appeal by the Insurance Company avoiding its liability, this Court is not considering the said part of the impugned judgment. The present appeals are only concerning enhancement of the award amount.

MAC No.593 of 2015

6. In this claim case, the Claims Tribunal has awarded total compensation of Rs.3,72,000/-, which consists of Rs.3,42,000/- towards loss of income, Rs.10,000/- to each of the appellants for loss of love & affection and further amount of Rs.10,000/- for funeral expenses.

7. According to learned counsel for the appellants, the Claims Tribunal has not awarded any amount to the appellants for future prospects and the amount awarded towards funeral expenses and loss of love & affection is also meagre. However, learned counsel for the Insurance Company would argue that the amount awarded to the appellants is just and proper. He would further submit that in the absence of any proof of income

of the deceased, the concept of future prospects would not apply.

8. The Tribunal has found that there being no proof of income of the deceased, his monthly income should be taken at Rs.3000/-. However, the State Government's Notification fixing the minimum wages, as on the relevant date, has prescribed the minimum daily wages for an unskilled labour at Rs.173/-, therefore, it would be just and proper to consider the notional daily income of the deceased at Rs. 150/- per day, which comes to Rs.4500/- per month.

9. The deceased being aged about 20 yeas, multiplier of 18 is applicable, whereas, the Tribunal has wrongly applied the multiplier of 19, therefore, the multiplier deserves to be reduced form 19 to 18.

10. The appellants, who are the parents of the deceased, being only two in numbers, the deceased would have spent only 50% of his income on the appellants, therefore, if the amount of Rs.4500/- per month is calculated at 50%, it comes Rs. 2250/- per month. The said amount of Rs.2250/- is multiplied by 12 (2250 x 12), which comes to Rs.27,000/-. The amount of Rs.27,000/- is then again multiplied by 18 (27000 x 18) and the amount comes to Rs.4,86,000/-.

11. In addition to the above, the amount for loss of love and affection also deserves to be increased from Rs.10,000/- to Rs.25,000/- each. For funeral expenses also, the award amount

of Rs.10,000/- deserves to be increased to Rs.25,000/-. Thus, on all these heads, the appellants would be entitled to Rs.25000/- + Rs.25,000/- + Rs.25,000/- = Rs.75,000/-.

12. In so far as loss of future prospects is concerned, it would be apt to refer to the observations made by the Supreme Court in para 17 of the judgment rendered in the matter of **Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54**, holding that the ratio of a decision of this Court, on a legal issue is a precedent. But an observation made by this Court, mainly to achieve uniformity and consistency on a socio-economic issue, as contrasted from a legal principle, though a precedent, can be, and in fact ought to be periodically revisited as observed in **Santosh Devi Vs. National Insurance Co. Ltd., (2012) 6 SCC 421**.

13. In **Santosh Devi (supra)**, the Supreme Court has observed in para 17 that although the wages/income of those employed in unorganised sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the government employees and those employed in private sectors, but it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. Judicial notice can be taken of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an

example of a tailor who earns his livelihood by stitching clothes. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. So will be the cases of ordinary skilled and unskilled labour like barber, blacksmith, cobbler manson etc.

14. In light of the above observations made by the Supreme Court as also the vision and mission of the Central Government as circulated time and again in print and electronic media that efforts are on to double the income of the farmers by 2022, if the future prospects of the persons working in the unorganised sector is not taken care of, the compensation awarded to the dependents of the deceased in road accident would not be just, fair, reasonable and equitable. To achieve this social objective, it is necessary to keep the future prospects of all persons who are salaried/employed/engaged in organised/unorganised sector while assessing the just compensation.

15. The methodology adopted by the Supreme Court to take care of the future prospects has been provided in para 19 of the judgment in the matter of **Rajesh (supra)**. Applying the said calculation, 50% of the notional income of the deceased is required to be added by way of future prospects, thus, the total monthly income of the deceased would come to Rs.6750/-, 50% of which would come to Rs.3375/-. The said amount of Rs.3375/- is to be multiplied by 12 and then, by 18 (3375 x 12 x 18), which comes to Rs.7,29,000/-. Adding the amount of Rs.75,000/- awarded towards loss of love and affection and funeral

expenses, as calculated in the preceding paragraphs, to the amount of Rs.7,29,000/-, the total compensation payable to the appellants would be Rs.8,04,000/-. Thus, the appellants are held entitled to Rs.8,04,000/-.

16. The enhanced amount shall be deposited by the Insurance Company within a period of 03 months from today. It is directed that 75% of the awarded amount shall be in the name of appellant no.1 and the remaining 25% shall be in the name of appellant No.2.

17. The entire award amount shall carry interest @ 6% per annum from the date of claim petition.

MAC No.594 of 2015

18. The appellants are widow, sons, daughters and father of deceased Shankar Gandharva, who was aged about 30 years.

19. Taking the deceased's monthly income including future prospects at Rs.6750/- and reducing 1/4th of it, because, the claimants are 6 in numbers, the total dependency comes to Rs.5062.50, which is rounded off to Rs.5060/-. The said amount of Rs.5060/- is to be multiplied by 12 and then, by 17 (5060 x 12 x 17) and the amount comes to Rs.10,32,240/-.

20. Appellant No.1 being widow is entitled to Rs.1 lakh towards loss of consortium as held by the Supreme Court in the matter of **Rajesh (supra).** The other appellants who are sons, daughters and father of the deceased would be entitled to Rs.25,000/-

each for loss of love and affection. They are also entitled to Rs.25,000/- for funeral expenses. The total award would, thus, come to Rs.12,82,240/- which shall carry interest @ 6% per annum from the date of the claim petition. Out of the enhanced total awarded amount, appellant No.1, who is the widow of the deceased, shall be entitled to 40%, appellant No.6, father of the deceased, shall be entitled to 20% and the remaining 4 appellants, who are sons and daughters shall be each entitled to 10% of the amount of the compensation.

MAC No.595 of 2015

21. The claimants in this appeal are parents of deceased Umesh Lohar, who was aged about 20 years at the time of the accident. The age of the deceased and that of the deceased in MAC No.593 of 2015 being same and the claimants in both the matters being parents, the compensation awarded to the appellants in MAC No.593 of 2015 shall also apply in this appeal.

22. In all the appeals, the amount already deposited by the Insurance Company shall be adjusted in the total enhanced amount.

23. All the appeals are allowed to the extent indicated above.

Sd/- Sd/-

Judge
(Prashant Kumar Mishra)

Judge
(Arvind Singh Chandel)

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