

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 602 of 2013

1. G.P. Bharadwaj, S/o Late Bharthu Ram Aged About 45 Years R/o Dipka, Katghora, Distt. Korba C.G.
2. Smt. Surbano Bai W/o G.P. Bharadwaj Aged About 42 Years R/o Dipka, Katghora, Distt. Korba C.G.

---- Appellants (Claimants)

Versus

1. Sudama Yadav, S/o Dhanushdhari R/o A.C.C. Turn, Rajiv Nagar, Bhilai, Distt. Durg C.G.
2. Shri Ram General Insurance Co. Ltd. Thru- Branch Manager, Office At- Rajiv Plaza, Bus Stand, Bilaspur C.G.

---- Respondents

For Appellants	:	Shri Amiyakant Tiwari, Advocate.
For Respondent No.1	:	None.
For Respondent No.2	:	Shri Dipak Gupta, Advocate.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Ram Prasanna Sharma

Judgement

19/07/2017

1. This appeal filed by the claimants/appellants arises out of the award dated 30.11.2012 passed by the Additional Motor Accident Claims Tribunal, Katghora (henceforth 'the Claims Tribunal') in Claim Case No.29/11 whereby in a death case compensation of Rs.4,39,500/- has been awarded to the claimants/appellants herein.
2. Facts of the case, in brief are that on 21.12.2010 at about 11 in the morning deceased Dipak Raj was riding his motorcycle bearing registration number CG12-M-4743 moderately. When he reached near Birkona Turn, Koni, Bilaspur, the driver of bus bearing registration number

CG07-C-3167, which was coming from Bilaspur side, lost control of the bus due to rash & negligent driving and hit against the said motorcycle of Dipakraj as a result of which he sustained grievous injuries all over his body and died on the spot itself. Report of the accident was lodged in the police station. A claim application was filed by the claimants/appellants, who are parents of the deceased, seeking compensation to the tune of Rs.53,00,000/- under various heads along with interest at the rate of 18% *inter alia* pleading that deceased Dipakraj was an unmarried person and fourth year student in an engineering college. At the time of accident, he was hale and healthy and aged about 24 years only. It has been further mentioned that the deceased would have earned good amount per month in future and would have provided financial assistance and pecuniary help to his parents i.e. claimants. However, on account of his untimely death, they have been deprived of the said benefit and therefore they are entitled to the compensation as claimed by them.

3. Respondent No.1 filed his written statement before the Claims Tribunal denying the averments made in the claim application and stating that at the time of accident he was driving the offending vehicle, at the time of accident he was possessing a valid and effective driving license to drive the offending vehicle and that on the date of accident, the vehicle was insured with the respondent No.2. Respondent No.2-Insurance Company has also filed its written statement denying the claim of the claimants.
4. The Claims Tribunal by the impugned award has awarded a compensation of Rs.4,39,500/- to the appellants under various heads such as loss of income, loss of affection of son, loss of estate, transportation expenses and funeral expenses. It is this award which has been challenged by the appellants in this appeal.

5. Counsel for the appellants submits that;-

- the deceased was an engineering student and at the time of the accident he was aged 24 years, therefore, the Claims Tribunal ought to have fixed his notional income at Rs.6,000/- per month.
- the sum awarded under the conventional heads are also on the lower side.
- rate of interest awarded at the rate of 6% per annum from the date of application till payment is also very low and it requires upward revision and enhancement.

6. On the other hand, it has been argued on behalf of the counsel for respondent No.3 that the compensation awarded by the Claims Tribunal is just and proper and as such, the same is not required to be enhanced at all.

7. Heard counsel for the parties and perused the material available on record.

8. Considering the fact that the deceased was an Engineering Student and just about to complete his Professional Course and hence could have taken good care of his family, the notional income of Rs.5000/-per month fixed by the Claims Tribunal is on lower side. We feel that it would be just and proper to consider his notional income as Rs.6,000/- p.m.

9. Accordingly, the monthly income of the deceased is taken to be Rs.6,000/- which makes the annual income as Rs.72,000/- and since the deceased was the student of engineering and at the time of accident, he was aged about 24 years, loss of future income can be assessed to be 50% of the total income which comes to Rs.36,000/- per annum and after deducting 50% towards his personal expenses, the annual loss of dependency would come to Rs.54,000/- $(72000 + 36000 / 50)$.

10. Considering the age of deceased, we are of the opinion that the Tribunal has not correctly applied the multiplier. In fact, for the age group of 21 to 25 years, multiplier of 18 has to be applied not of 14 as per the Schedule. Therefore, the multiplier is enhanced from 14 to 18 and after applying multiplier of 18, the total loss of dependency is assessed at Rs.9,72,000/- (54000x18). Besides this amount, the appellants are also entitled for a sum of Rs.1,00,000/- towards loss of affection of son, Rs.50,000/- towards loss of estate and Rs.25,000/- for funeral expenses. The appellants-claimants, thus, become entitled to receive a total sum of Rs.11,47,000/- (9,72,000+1,75,000) as compensation for the death of deceased Dipakraj in the motor accident. Since the Claims Tribunal has already awarded Rs.4,39,500/-, after deducting the said amount the claimant/appellants are entitled for enhanced amount of Rs.7,07,500/- (11,47,000 - 4,39,500). This additional amount of compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization.

11. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

Sd/-
(P. Diwaker)
Judge

Sd/-
(RP Sharma)
Judge

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