

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 991 of 2013

1. Bharat Lal Pal S/o Nohar Singh Pal Aged About 46 Years
2. Smt. Mukta Bai W/o Bharat Lal Pal Aged About 43 Years

Both resident of Ward No. 63, Shyama Prasad Mukherji,
Bhathagaon, P.S. Purani Basti, Raipur, Distt. Raipur C.G.

---- Appellants

Versus

1. Lalit Kumar Sahu S/o Panch Ram Sahu R/o Gudayari, Raipur,
Distt. Raipur C.G. (driver of vehicle no.C.G. 04 JC 2165)
2. M/s Lotus Infront Pvt. Ltd. Through- In-Charge-Officer/competent
Officer, M/s Lotus Infront Pvt. Lt., H.P. Krishna Fuels, Sundarnagar,
Raipur, Distt. Raipur C.G. (owner of vehicle no.C.G. 04 JC 2165)
3. Future General India Insurance Company Ltd. Through, In-
charge-officer, Future General India Insurance Com. Ltd., First
Floor, Business World Block 27, Plot No. 8, FF 9, Thakur Pyare Lal
Ward, P.S. Azad Chowk, Raipur, Distt. Raipur C.G.

---- Respondents

For appellants - Shri Amiyakant Tiwari, Advocate.

For Respondent No.3 - Shri Rohitsava Singh, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

31/07/2017

1. This instant appeal is against the award dated 27th August, 2013 passed in Claim Case No.56/2012 by the First Additional Motor Accident Claims Tribunal, Raipur whereby an amount of Rs.2,45,000/- has been awarded in favour of the claimants i.e. mother and father the appellants.
2. As per the case of the claimants, on 14/08/2011 deceased Ravi Pal was coming towards GE Road from Dangania in his motorcycle bearing no.C.G.-04 DX-1029 at that time Tata vehicle bearing No. CG-04 JC-2165 driven by non-applicant No.1 Lalit Kumar Sahu in a rash and negligent manner dashed the deceased whereby during treatment he died in the hospital. It was stated that deceased was aged about 20 years at the time of accident and was working with Idea Mobile

Company and was earning Rs.5000/- per month. Thereby claim petition was filed. By award dated 27th August, 2013 tribunal has passed the award by holding that at the relevant time the offending vehicle was being driven by Lalit Kumar Sahu non-applicant No.1 which dashed the motorcycle wherein deceased was traveling and by effect of such injury he died. It was also held that at the relevant time vehicle was registered with non-applicant No.3 Future General India Insurance Company Limited. Instant appeal is only for enhancement and finding of rash and negligent act and the liability of the insurance company is not under challenge.

3. Learned counsel for the appellants submits that the tribunal has assessed the income on the meager side, it has not assessed income correctly it should have been relatively enhanced as no future prospect have been awarded.

4. Per contra, learned counsel for the insurance company vehemently opposes the same and submits that under the facts of this case no future prospect can be awarded as issue is still to be adjudicated by the larger bench of Supreme Court.

5. Perused the statement of the claimants father Bharat Lal Pal. He stated that at the time of incident his son was aged 20 years and was earning Rs.5000/- per month. No cross examination has been made on the point of income by the insurance company. Non-applicants No.1 and 2 in the cross examination though suggested income was Rs.6000/-, however the fact that he was getting salary has not been diluted.

6. Learned claims tribunal has held income of the deceased to Rs.3000/- per month. Taking into drastic fall in money value and looking

to the minimum wages which was prevailing at the relevant time as against job discharged by the deceased, in the considered opinion of this court amount of Rs.4500/- per month can be assessed to be reasonable in the facts of this case. It appears that no future prospect has been awarded, therefore following the principle laid down in case of **Rajesh & others Vs. Rajbir Singh & others** reported in **(2013) 9 SCC 54** 50% has to be added to the income as future prospect. Thus, total income of the deceased comes to Rs.4500 + 2250 = Rs.6750/- per month. Since deceased was unmarried there would be deduction of 50% towards personal expenses of deceased. Thereby loss of monthly dependency would come to Rs.3375/-. Deceased was stated to be 20 years at the time of accident, therefore in view of the law laid down in case of **Amrit Bhanushali Vs. National Insurance Com. Ltd.** reported in **(2012) 11 SCC 738** multiplier of 19 would be applicable. Thereby, total dependency comes to Rs.3375x12x19=Rs.7,69,500/-. Further under the other heads claims tribunal has awarded Rs.20,000/- for loss of estate, Rs.20,000/- for loss of love and affection and Rs.25,000/- for funeral expenses. The award made for loss of love and affection and for loss of estate appears to be too meager. Therefore, for loss of love and affection amount is enhanced to Rs.1 lakh and for loss of estate amount is enhanced to Rs.50,000/-. In respect of the funeral expenses the award of Rs.25,000/- is maintained. Consequently, total compensation is re-assessed as follows:-

S.No.	Heads	Calculation
(i)	Notional income @ Rs.4500/- per month plus 50% of the income to be added as future prospect comes to Rs.2250/- whereby the amount comes to Rs.6750/-	Rs.6750/-
(ii)	50% of the above to be deducted	Rs.3375/-

	as personal expenses since deceased was unmarried which comes to Rs.3375/-	
(iii)	Annual dependency comes to	Rs.3375 x 12 = Rs.40,500/-
(iv)	By applying multiplier of 19 looking to the age of deceased, it comes to Rs.	Rs.40,500 x 19 = Rs.7,69,500/-
(v)	For loss of love and affection	Rs.1,00,000/-
(vi)	For loss of estate	Rs.50,000/-
(vii)	For funeral expenses	Rs.25,000/-
	Total	Rs.9,44,500/-

7. Thus, total compensation will be Rs.9,44,500/-. After deducting Rs.2,45,000/- awarded by the tribunal, the enhancement would be Rs. 6,99,500/-. The said amount shall carry interest @ 6% per annum as awarded by the tribunal from the date of filing of the claim petition till date of realization.

8. In the result, appeal is partly allowed. The claimants will be entitled to receive Rs. 6,99,500/- in addition to what is already awarded to them by the claims tribunal.

9. The Registry is directed to communicate the claimants in writing the “amount of award enhanced in this appeal” as against the award made by the tribunal. The said communication be made in Hindi Deonagari language. Concerned Legal Aid Committee of the area shall also look into the matter so as to ensure amount of compensation reaches to the claimants/appellants.

Sd/-
(Goutam Bhaduri)
JUDGE

