

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 196 of 2015

1. Smt. Shyam Kunwar, W/o Late Fulsingh Thakur, aged about 45 years, R/o Sonarpara, Ratanpur, Police Station-Ratanpur, Distt. Bilaspur C.G.
2. Santosh Singh S/o Late Fulsingh Thakur, aged about 29 years R/o Sonarpara, Ratanpur, Police Station Ratanpur, Distt. Bilaspur C.G.
3. Smt. Sonyia Bai W/o Santosh Singh Aged About 29 Years R/o Sonarpara, Ratanpur, Police Station-Ratanpur, Distt. Bilaspur C.G.
4. Manish Singh S/o Santosh Singh, aged about 8 years, resident of Sonarpara, Ratanpur, Police Station Ratanpur, Distt. Bilaspur C.G.
5. Anish Singh S/o Santosh Singh Aged About 5 Years, Sonarpara, Ratanpur, Police Station Ratanpur, Distt. Bilaspur C.G.

Appellants No.4 & 5 are minor Through legal guardian Father Santosh Singh.

---- Appellants (Claimants)

Versus

1. Deepak Kumar Patel, S/o Ramgovind Patel, Aged About 28 Years, R/o Kenaipara Nagar, Post-Korba, At Present M/691 Chunchuni Colony, Kusmunda, P.S. Kusmunda, Distt. Korba C.G.
2. National Insurance Company Limited. Through The Branch Manager, Branch Office At Korba, 13 Meenu Complex, Main Road, Kosabadi, Korba C.G.
3. Leftinent Kernel Mohan Singh R/o Post Office-Kusmunda Project, District-Korba C.G.

---- Respondents

For Appellants	:	Shri A.L. Singraul, Advocate
For Respondent No.1 & 3	:	None.
For Respondent No.2	:	Shri Qamrul Aziz, Advocate.

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

Order On Board

P. Diwaker, J

31/07/2017

1. The claimants/appellants have challenged the award dated 20.11.2013 passed by the Motor Accident Claims Tribunal (FTC), Bilaspur (for short 'the Claims Tribunal') in Claim Case No.9/2013 thereby partly allowing the claim application of the claimants herein and awarding compensation of Rs.1,90,000/- together with interest at the rate of 6% p.a. for the accidental death of deceased Ashok Singh.
2. Facts of the case, in brief are that on 3.8.2000 deceased Ashok Singh along with his friends was returning to Ratanpur from Bilaspur on motorcycle bearing registration number MP26-K-1263 and when they reached near Police Station Koni, the offending vehicle i.e. Truck Dumper bearing registration No.MP26-D-1362 coming from the opposite direction and being driven by respondent No.1 herein in a rash & negligent manner, hit against the motorcycle on which the deceased was travelling as a result of which he received grievous injuries and died on the spot itself. Report of the accident was lodged in the Police Station Koni, Bilaspur. A claim petition was filed by the claimants/appellants herein seeking compensation to the tune of Rs.28,18,000/- under various heads, inter alia, pleading that at the time of accident, the deceased was 22 years of age and was the final year student of law. The entire family were expecting him to support the family in all ways after completion of his studies. The accident took place due to rash and negligent driving on the part of respondent No.1 and therefore the owner, driver & insurer of the offending vehicle are jointly & severally liable to compensate the

appellants. Therefore, it has been prayed that an amount of Rs.28,18,000/- be awarded as compensation in favour of the appellants and against the respondents.

3. Respondent No.3 Insurance Company by filing written statement contested the case on the ground that at the time of accident, respondent No.1 herein was not having valid & effective license to drive the vehicle in question and therefore the insurance company is not liable for making payment of compensation to the claimant.
4. The Claims Tribunal by the impugned award has awarded a compensation of Rs.1,90,000/- to the appellants under various heads such as loss of estate, loss of dependency & funeral expenses. It is this award which has been challenged by the appellants in this appeal.
5. Counsel for the appellant submits that;-
 - at the time of accident, the deceased the final year student of law and the deceased was having bright future prospects in the profession of advocacy and his future income might exceed more than Rs.50,000/- per month. Therefore, the Claims Tribunal has erred in fixing the notional income of the deceased as Rs.36,000/- per annum.
 - the proper multiplier that could be applied to the appellants' claim is 18, however, the Claims Tribunal has applied multiplier of 10.
 - the sum awarded under the conventional heads are also on the lower side.
 - the 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. In a motor accident claim case, what is important is that, the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meagre amount of compensation, nor a Bonanza.
9. Now we shall examine as to whether the compensation of Rs.1,90,000/- awarded by the Claims Tribunal is just and proper compensation in the given facts and circumstances of the case.
10. Admittedly, the deceased was 22 years of age and was the final year student of law at the time of accident and thus, it would be safely assumed that the deceased was a bright student and was in the process of acquiring a professional degree, therefore, it can be reasonably assumed that he would have at least earned Rs.54,000/- per annum, if had he been alive. Nevertheless, the income of the deceased assessed by the Tribunal at Rs.3,000/- per month is certainly on the lower side and requires reconsideration. Likewise, the amount awarded under the conventional heads also appears to be inadequate and requires suitable enhancement in this appeal. In these circumstances, we propose to recompute the compensation by taking the monthly income of the deceased as Rs.4,500/-.
11. Accordingly, the monthly income of the deceased is taken to be Rs.4,500/-

which makes the annual income as Rs.54,000/- and likewise, looking to the age of deceased at that time of accident i.e. 22 years, loss of future income can be assessed to be 50% of the total income which comes to Rs.27,000/- p.a. After deducting half from Rs.81,000/- (54000+2700) towards personal expenses of the deceased, the annual loss of dependency would come to Rs.40,500/- (81000-40500). Considering the age of the deceased which was 22 years at the time of accident, we are of the view that the Tribunal has wrongly applied the multiplier of 10 and as per the Schedule, the proper multiplier would be 18. Therefore, we apply the multiplier of 18 and assess the total loss of dependency as Rs.7,29,000/- (40500 x 18). Besides this amount, the appellants are entitled for a sum of Rs.50,000/- for loss of estate & Rs.50,000/- for funeral expenses. The appellants-claimants, thus, become entitled to receive a total sum of Rs.8,29,800/- (7,29,000+1,00,000) as compensation for the death of deceased Ashok Singh in the motor accident. Since the Claims Tribunal has already awarded Rs.1,90,000/-, after deducting the said amount the claimant/appellants are entitled for enhanced amount of Rs.6,39,000/- (7,29,000 - 1,90,000). This additional amount of compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization.

12. 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