

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.A.(C) No. 1068 of 2015

1. Smt. Jhamin Bai Sahu, W/o. Damru Lal Sahu, Aged About 44 Years.
2. Damru Lal Sahu, S/o. Indal Sahu, Aged About 47 Years.

Both are R/o. Village & Post Dogardula, Police Station & Tahsil Nagri, District Dhamtari, Chhattisgarh.

---- Appellants

Versus

1. Tarun Kumar, S/o. Premlal Sahu, Aged About 24 Years, R/o. Village Nagri, Police Station & Tahsil Nagri, District Dhamtari Chhattisgarh.
2. Abhi Enterprises, Komalchand Prakash, S/o. Lalchand, 4/5 Nehru Nagar, Bhilai, District Durg, Chhattisgarh.
3. Future General India Insurance Company Limited, Shop No. 3, 2nd Floor Maruti Business Park, Nearby Dhuppad Petrol Pump, Raipur, Tahsil & District Raipur Chhattisgarh

---- Respondents

For Appellants	:	Mr. Samir Singh, Advocate.
For Respondent No.3	:	Mr. Siddharth Rathod, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24.07.2017

1. The instant appeal is against the award dated 05.02.2014 passed in Claim Case No.62/2014 by the learned Additional Motor Accident Claims Tribunal, Dhamtari, whereby as against the claim made for Rs.7,00,000/-, an award of Rs.3,44,000/- was granted to the mother & father for death of their son, deceased Santosh Kumar Sahu.
2. Briefly stated facts of the case is that on 10.06.2013, son of the claimants, deceased Santosh Kumar Sahu was going on Pickup bearing No.C.G.07-6281 from village Taregaon to Sourubolda and when they reached near village Jamunpani Shivtola turn, the vehicle which was driven by Tarun Kumar, non-applicant No.1, could not

control whereby the vehicle turned turtle and the deceased Santosh Kumar Sahu sustained severe injuries. It was stated that at the time of incident, the deceased was aged about 22 years and was earning Rs.200/- per day from his daily-wager apart from the food and other emoluments. It was stated that the deceased was only earning member wherein the appellants were dependent. Consequently, an amount of Rs.7,00,000/- was claimed.

3. During the course of trial, it was found that at the relevant time, the vehicle which was owned by Abhi Enterprises who was arrayed as non-applicant No.2 was being driven by Tarun Kumar, non-applicant No.1, in a rash and negligent manner and caused the accident. At the relevant time, it was also found that it was not being driven against the terms of the insurance policy. The present appeal is only confined to the quantum of compensation for enhancement.
4. Learned counsel for the appellants would submit that the compensation awarded is too meager despite the incident happened in 2015 and reasonable amount of Rs.200/- per day was stated to be earned by the deceased. The Tribunal has held Rs.3,000/- per month to be the income of the deceased and on the other heads, meager compensation has been awarded and future prospects has not been awarded. Considering the same, the amount may be enhanced suitably.
5. Per contra, learned counsel appearing on behalf of the Insurance Company supported the award and would submit that the award is well merited, which do not call for any interference.
6. I have heard the learned counsel appearing for the parties at length, perused the documents and the evidence on record.

7. Now coming to the quantum, the Tribunal has assessed the monthly income of the deceased to be Rs.3,000/-. Taking into the statement of the appellants that their son used to earn Rs.200/- per day and nature of job and the year of incident i.e. 2013 and taking it with the intermittent availability of job everyday and further considering the price index, I deem it proper to assess the income of the deceased to Rs.5,000/- per month. Further, considering the age of the deceased that he was below 40 years, 50% future prospect has to be added as per the principles laid down in case of **Rajesh & Others Vs. Rajbir Singh & Others**¹ and thereby the amount comes to Rs.7,500/- per month.
8. Now coming to the deduction towards personal expenses, the claim petition was filed by two dependents and the deceased was unmarried, therefore, the deduction of 50% would be applicable and thereby the monthly income comes to Rs.3,750/-. As the deceased was shown to be 21 years in the post mortem report also, therefore, as per the principles laid down in case of **Sarla Verma V. D.T.C.**², the multiplier of 18 would be applicable. Thus, the total dependency comes to Rs.8,10,000/- (Rs.3750 x 12 x 15).
9. Further, for loss of love & affection Rs.10,000/-, for loss of estate Rs.5,000/- and for funeral expenses Rs.5,000/- have been awarded, which appears to be very low and are meager. Therefore, Rs.1,00,000/- is granted for loss of love & affection including loss of estate and Rs.25,000/- is awarded for funeral expenses. Thereby, total amount comes to Rs.9,35,000/-. Thus, the calculation would be assessed as under :

1 (2013) 9 SCC 54

2 (2009) 6 SCC 121

S.N.	Heads	Calculation
(i)	Income of the deceased @ Rs.5000/- per month	Rs. 60,000/- per annum
(ii)	50% of (i) above to be added as future prospects.	Rs. 60,000 + 30,000 = Rs. 90,000/-
(iii)	50% (ii) deducted as personal expenses of the deceased.	Rs. 90,000 – 45,000 = Rs. 45,000/-
(iv)	Compensation after multiplier of 18 is applied.	Rs. 45,000 x 18 = Rs. 8,10,000/-
(v)	For loss of love and affection to the father & mother including loss of estate.	Rs. 1,00,000/-
(vii)	For funeral expenses.	Rs. 25,000/-
	Total	Rs. 9,35,000/-

10. Thus, the total compensation is recomputed as Rs.9,35,000/-. After deducting Rs.3,44,000/- as awarded by the learned Claims Tribunal, the enhancement would be Rs.5,91,000/-.
11. In the result, the appeal is partly allowed. The appellants will be entitled to the said sum of Rs.5,91,000/- in addition to what is already awarded by the Claims Tribunal. The amount shall carry interest @ 6% per annum from the date of filing of the claim petition till the date of its realization.
12. The Registry is directed to communicate the claimants in writing the “amount enhanced in this appeal” as against the award made by the Tribunal below. The said communication be made in Hindi Devanagari language.

No order as to costs.

Sd/-
(Goutam Bhaduri)
Judge