

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1473 of 2015**

1. Loknath Soni S/o Ramkishan Soni, Aged About 52 Years R/o Ward No.1 Bagbahara, Tahsil Bagbahara, Civil And Revenue District Mahasamund, Chhattisgarh
2. Smt. Seema Soni W/o Loknath Soni, Aged About 46 Years R/o Ward No.1 Bagbahara, Tahsil Bagbahara, Civil And Revenue District Mahasamund, Chhattisgarh (Claimants)

Versus

1. Keshav Soni S/o Chhotelal Soni, Aged About 28 Years R/o Village Tendullotha, Ward No. 12, Bagbahara, Tahsil- Bagbahara, Civil And Revenue District- Mahasamund, Chhattisgarh (Driver Of The Offending Vehicle)
2. Rajkumar Patel S/o Shyamlal Patel, Aged About 26 Years R/o Ward No.12 Jhalap Chowk, Bagbahara, Tahsil- Bagbahara, Civil And Revenue District Mahasamund, Chhattisgarh (Owner Of The Offending Vehicle)
3. National Insurance Company Limited, Through Its Branch Manager, Sahid Smarak Bhawan, J.E.Road, Raipur, Civil And Revenue District Raipur, Chhattisgarh (Insurer Of The Offending Vehicle)

---- Respondents

For Appellants : Mr. Vikram Dixit, Advocate

For Respondent No.3 : Mr. Shivendu Pandya, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Judgment/Order on Board****21-07-2017**

1. The instant appeal filed under Section 173 of the Motor Vehicles Act, 1988 is against the award dated 22-8-2015 passed in Claim Case No.201 of 2013 by First Additional Motor Accident Claims Tribunal, Mahasamund, District Mahasamund (CG), whereby the claim petition of the

claimants was partly allowed by awarding a total compensation of Rs.3,59,000/- as against the claim of total compensation of Rs.81,60,000/-.

2. As per case of the claimants/appellants, who are mother and father of the deceased Pramod Soni, on 25-6-2013 when the deceased was travelling in Alto Car bearing registration No. CG 04 HC 6686 which was coming from Bhilai, at that time, the said vehicle driven by Kesav Soni, non-applicant No.1 in rash and negligent manner dashed the Truck from back side whereby deceased sustained grievous injuries and died on the spot. It is not disputed that the vehicle was owned by Raj Kumar Patel, non-applicant No.2 and was insured with non-applicant No.3/Insurance Company. It was stated by the claimants that deceased Pramod Soni was working in Prince Communication as Salesman and used to earn 18,000/- per month and thereby the claimants who are dependents of the deceased had deprived of his income and consequently on various heads the claimants have claimed a total compensation of Rs.81,60,000/- for the death of their son Pramod Soni.
3. The trial Court after evaluating the entire evidence came to the finding that at the time of accident ie, on 25-6-2013, Alto Car bearing registration No. CG 04 HC 6686 was being driven by non-applicant No.1 in rash and negligent manner and thereby caused accident. It was also held that at the relevant time, there was no breach of any terms of

the insurance policy as the driver of the offending vehicle was holding valid driving licence, vehicle permit and fitness certificate of the vehicle.

4. Learned counsel for the claimants/appellants submits that the Tribunal has failed to consider the certificate of income which was marked as Ex.P/13 which shows that the deceased was working as a Salesman in Prince Communication and was earning Rs.18,000/- per month. He would further submit no future prospects have been awarded by the claims tribunal and the compensation awarded on various heads is meagre which require to be enhanced.
5. *Per contra*, learned counsel appearing on behalf of respondent No.3 would submit that the award passed by the Claims Tribunal is well merited which does not call for any interference.
6. I have heard the learned counsel for the parties at length and have perused the documents and evidence on record.
7. Perused the record of the court below. In order to prove the income of the deceased, mother of deceased Smt. Seema Soni has stated in her affidavit under Order 18 Rule 4 of the C.P.C., that her son was working as a Salesman in Prince Communication and used to earn Rs.18,000/- per month. Salary certificate has been proved by this witness. One Vishnu Kumar Soni who was examined on behalf of the claimant has stated that the deceased was getting monthly salary of Rs.18,000/- as per Ex.P/13. He himself appears to

be owner of Prince Communication. In cross examination of this witness, it appears that deceased was related to him and no document was separately kept for all the employees, therefore, Ex.P/13 has been filed stating that at the relevant time, deceased was getting Rs.18,000/- per month. Neither relevant document to support the contention was placed nor any other evidence was placed for appreciation.

8. Learned Claims Tribunal, however, has held the income of the deceased to be of Rs.3,000/-. Taking into drastic fall in the money value and looking to the minimum wages which is prevailing at the relevant time as against the job discharged by the deceased, in the considered opinion of this Court an amount of Rs.6,000/- per month as income of the deceased appears to be just and reasonable. It appears that no future prospects has been awarded. Therefore, following the principles of law laid down in ***Rajesh & others Vs. Rajbir Singh & others reported in (2013) 9 SCC 54,*** further 50% is to be added to the income. Thus the total income of the deceased would come to Rs.9000/- per month i.e., Rs.6000 plus 3000/-. Since the deceased was unmarried, there would be a deduction of 50% towards personal expenses of deceased thereby the loss of monthly dependency would come to Rs. 4500/-. The deceased was stated to be 25 years of age at the time of accident. Therefore, in view of the principles laid down in case ***Amrit Bhanushali Vs. National***

Insurance Com. Ltd., reported in (2012) 11 SCC 738,

the multiplier of 18 would be applicable, thereby the total loss of dependency comes to Rs.9,72,000/- (4500 x 12 x 18). Further, under the other heads, the Claims Tribunal awarded Rs.1,00,000/- for loss of love and affection and Rs.25,000/- for funeral expenses which appear to be reasonable. Consequently, the total compensation to be re-assessed as follows:

S.No.	Heads	Calculation
i)	Notional income @ Rs.6000/-per month plus 50% of the income to be added as future prospects comes to Rs. 3000-whereby the amount comes to Rs.9000/-	Rs.9000/-
ii)	50% of the above to be deducted as personal expenses since deceased was unmarried which comes to Rs. 4500/-	Rs.4,500/-
iii)	Annual dependency (column 1 -2) comes to	Rs. 54,000/-
iv)	By applying multiplier of 18 looking to the age of deceased, it comes to Rs.	Rs.9,72,000/-
v)	Loss of love and affection	Rs.1,00,000/-
vi)	Funeral expenses Rs	Rs. 25,000/-
	Total	Rs.10,97,000/-

9. Thus, the total compensation will be Rs.10,97,000/- After deducting Rs. 3,59,000/- awarded by the tribunal, the enhancement would be Rs. 7,38,000/-. The said amount shall carry interest @ 6% per annum as awarded by the Tribunal from the date of filing of claim petition till the date of realization.
10. In the result, the appeal is partly allowed. The claimants will be entitled to receive Rs. 7,38,000/- in addition to what is already awarded to them by the Claims Tribunal.

11. 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 below. The said communication be made in Hindi Deonagari language and preferably the same may be communicated through Gram Panchayat of the village of the claimants/appellants.

Sd/-
(GOUTAM BHADURI)
JUDGE

Raju / Rao