

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MAC No. 197 of 2015**

1. Kaushal Kumar Tiwari, S/o Ramtahal Tiwari Aged About 50 Years R/o Sonarpara, Ratanpur, Police Station-Ratanpur, Distt. Bilaspur C.G.
2. Smt. Prabha Bai W/o Kaushal Kumar Tiwari Aged About 45 Years R/o Sonarpara, Ratanpur, Police Station-Ratanpur, Distt. Bilaspur C.G.
3. Sanjeev Tiwari S/o Kaushal Kumar Tiwari Aged About 26 Years R/o Sonarpara, Ratanpur, Police Station-Ratanpur, Distt. Bilaspur C.G.
4. Anupam Kumar Tiwari S/o Kaushal Kumar Tiwari Aged About 20 Years R/o Sonarpara, Ratanpur, Police Station-Ratanpur, Distt. Bilaspur C.G.

**---- 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**

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

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**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.8/2013 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 Sandeep Tiwari.

2. Facts of the case, in brief are that on 3.8.2000 deceased Sandeep Tiwari 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 in the hospital while undergoing treatment. 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.73,52,800/- under various heads, inter alia, pleading that at the time of accident the deceased was earning Rs.1,63,300/- per annum from agriculture and they were dependant on him, however, on account of untimely death of the deceased a loss of income had occasioned to them and therefore, they are entitled to the compensation as claimed by him.
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;-

- 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. True, the claimant/appellant pleaded that deceased used to earn Rs.1,63,300/- per month from agriculture, no cogent and reliable evidence was led before the Claims Tribunal to establish the income of the deceased to the aforesaid extent. Therefore, we do not find any fault in the approach of the Claims Tribunal in discarding the appellant's evidence about the income of the deceased. Nevertheless, the income of the deceased assessed by the Tribunal at Rs.36,000/- per annum in the year 2010 is certainly on the lower side and requires reconsideration.
11. Considering that deceased Sandeep Tiwari, on the date of accident, was aged about 22 years, we are of the opinion that he could have easily earned Rs.150/- per day in the year 2010 by working as an unskilled labour. We, therefore, propose to recompute the compensation taking the income of the deceased at Rs.4,500/- per month and Rs.54,000/- per annum. 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 towards personal expenses of the deceased from his annual income i.e. Rs.81,000/- (54000+27000), the claimants' dependency is assessed at Rs.40,500/- per annum. Considering the age of the deceased which was 22 years at the time of accident, we are of the view that the Claims Tribunal has wrongly applied the multiplier of 10 and as per the Schedule, the proper multiplier would be 18. Therefore, we apply 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.8,29,000/- (7,29,000+1,00,000) as compensation for the death of deceased Sandeep Tiwari 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/- (8,29,000 - 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

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