

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 13-7-2018

Order passed on 24-7-2018

MAC No. 1135 of 2013

- The Oriental Insurance Co.Ltd. Thru- Divisional Manager,
Divisional Office, Permanand Building, Rajendra Park Chowk,
Maliva Nagar, Durg, Tah. And Distt. Durg C.G., Chhattisgarh

---- Appellant

Versus

1. Ashok Kumar Sonkar S/o Mehtar Ram Sonkar Aged About 41 Years R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., Chhattisgarh
2. Kumari Sarla Sonkar D/o Ashok Kumar Sonkar Aged About 20 Years R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., District : Durg, Chhattisgarh
3. Kumari Surbhi Sonkar D/o Ashok Kumar Sonkar Aged About 18 Years R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., District : Durg, Chhattisgarh
4. Kumari Ratnawali Sonkar D/o Ashok Kumar Sonkar Aged About 16 Years Minor, Thru- Father Ashok Kumar Sonkar, R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., District : Durg, Chhattisgarh
5. Kumari Manjusha Sonkar D/o Ashok Kumar Sonkar Minor, Thru- Father Ashok Kumar Sonkar, R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., District : Durg, Chhattisgarh
6. Kumari Tripti Sonkar D/o Ashok Kumar Sonkar Aged About 9 Years Minor, Thru- Father Ashok Kumar Sonkar, R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., District : Durg, Chhattisgarh
7. Manish Sonkar S/o Ashok Kumar Sonkar Minor, Thru- Father Ashok Kumar Sonkar, R/o Ward No. 50, Borshi Bhata Durg, Tah. And Distt. Durg C.G., District : Durg, Chhattisgarh
8. Dinesh Chouhan S/o Nag Lal Chouhan Aged About 40 Years R/o Thana Supela, Tah. And Distt. Durg C.G., Thru-- Harpal Singh Banga, Transport Company, Tp Nagar, Hathkhogh Bhilai, Distt. Durg C.G., District : Durg, Chhattisgarh
9. Smt. Gurjeet Kaur W/o Harpal Singh Thru- Harpal Singh, R/o Banga Transport Company, Tp Nagar, Hathkhogh, Bhilai, Distt. Durg C.G., District : Durg, Chhattisgarh

---- Respondents

For appellant	:	Mrs. Chitra Shrivastava, Advocate.
For respondents	:	None

SB: Hon'ble Shri Justice Ram Prasanna Sharma
CAV Order

1. This appeal is preferred under Section 173 of the Motor Vehicle Act, 1988 (For short, "the Act, 1988") against the award dated 28-9-2013 passed by 6th Additional Motor Accident Claims Tribunal (for short, "the Tribunal") Durg, District Durg (CG) in Claim Case No. 105 of 2013 wherein the said Tribunal awarded a compensation of Rs.11,57,000/- in favour of claimants/respondents No. 1 to 7 on account of death of one Durga Bai Sonkar who died on 20-12-2011 in a motor accident.
2. As per the claimants, respondent No.8 Dinesh Chouhan is a driver of vehicle Tata Truck bearing registration No. CG-07-C 6885 and respondent No.9 Smt. Gurjeet Singh Kaur is owner of the said vehicle. At the time of incident, the deceased was sitting as pillion rider on motor cycle bearing registration No. CG -07-LD-3357 driven by Ashok Kumar Sonkar which is dashed by the said Truck as a result of which she succumbed to the injuries. After recording the evidence of both sides and after hearing the both parties, the Tribunal awarded the compensation as mentioned above.

3. Learned counsel appearing for the appellant would submit that the award of compensation on conventional head to each of the claimants @ Rs.1,00,000/- and in all Rs.7,00,000/- is against the law pronounced by Hon'ble the Supreme Court.
4. As per law laid down by Hon'ble the Apex Court in the matter of **National Insurance Company Limited vs. Pranay Sethi, reported in AIR 2017 SC 5157**, the amount on conventional head is Rs.70,000/-, whereas the Tribunal awarded a sum of Rs.7,00,000/- on this count. As the award of conventional head is improper, this court has to re-assess the compensation.
5. The date of incident is 20-12-2011 and at that point of time minimum wages prevailing was Rs.200/- per day which comes out to Rs.6000/- per month and Rs.72,000/- per annum. As the legal representatives are seven, the amount of 1/5th shall be deducted to personal expenses of the deceased which comes out to Rs.14,400/- and yearly dependency of respondents No. 1 to 7 comes out to Rs.57,600/-. As the age of the deceased, on the date of incident, was between 35 to 40 years, if multiplier of 15 is applied, then the total dependency comes out to Rs.8,64,000/-. As per law laid down as mentioned above, if Rs.70,000/- shall be added on conventional head, in all the compensation comes out to Rs.9,34,000/-.
6. Accordingly, the appeal is modified to the extent as indicated above. The appellant shall pay compensation of Rs.9,34,000/- to the

claimants/respondents No. 1 to 7. Respondent No.1 who is husband of the deceased will get Rs.2,34,000/- through transfer of fund from the account of the Tribunal and rest of the amount shall be disbursed to other six respondents in equal sum and same will be transferred in their account from the account of the Tribunal. The Claimants/respondents No. 1 to 7 will get interest @9% from the date of filing of the claim petition and the same shall be disbursed to them equally through transfer of fund from the account of the Tribunal.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju