

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 40 of 2015

1. Sharda Ram Sahu And Ors. S/o Chhabi Lal Sahu Aged About 40 Years R/o Village- Sejbahar, Tah. Raipur, Distt. Raipur C.G.,
2. Smt. Neera Sahu W/o Sharda Ram Sahu Aged About 35 Years R/o Village- Sejbahar, Tah. Raipur, Distt. Raipur C.G., District : Raipur,
3. Ku. Divya Sahu D/o Sharda R o am Sahu Aged About 16 Years Minor, Thru-Legal Guardian Sharda Ram Sahu, R/o Village- Sejbahar, Tah. Raipur, Distt. Raipur C.G., District : Raipur,
4. Ku. Mamta Sahu D/o Sharda Ram Sahu Aged About 14 Years Minor, Thru-Legal Guardian Sharda Ram Sahu, R/o Village- Sejbahar, Tah. Raipur, Distt. Raipur C.G., District : Raipur
5. Harsh Kumar Sahu S/o Sharda Ram Sahu Aged About 16 Years Minor, Thru-Legal Guardian Sharda Ram Sahu, R/o Village- Sejbahar, Tah. Raipur, Distt. Raipur C.G., District : Raipur,

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Versus

1. Rajendra Thakur And Ors. S/o Nammu Ram Thakur Aged About 35 Years R/o Karhibhadar, P.S. Balod, Distt. Balod C.G., Present Address- Jai Bhawani Transport, P.S. Balod, Distt. Balod C.G.,
2. Sanjay Ambani S/o H.R. Ambani R/o Indira Ward, Palli Road, Jagdalpur, Distt. Bastar C.G., District : Bastar(Jagdalpur), Chhattisgarh
3. Branch Manager S/o Thru- National Insu.Co.Ltd., Near Coffee House, G.E. Road, Raipur, Distt. Raipur C.G., District : Raipur, Chhattisgarh

---- Respondent

For Appellants	: Shri Ritesh Verma, Advocate
For Respondent No.3/Respondent	: Smt. Chitra Shrivastava,
Advocate	

Hon'ble Smt. Justice Rajani Dubey

Order On Board

11/12/2018

This appeal arises out of the award dated 30.09.2014 passed by

the Seventh Additional Motor Accident Claims Tribunal (in short 'the tribunal') Raipur in Claim Case No. 174/2013 awarding a compensation of Rs. 1,45,000/- with interest @ 6.5% per annum in favour of appellants/claimants for the death of Kumari Chhaya Sahu..

2. Facts of the case in brief are that on 26.02.13, the respondent No.1 Rajendra Thakur who was driving the vehicle bearing Registration No. CG18H-1544 rashly and negligently dashed the deceased Kumari Chhaya as a result of which she sustained grievous injuries and she died on the spot. A claim petition was filed by the appellants who happened to be the legal heirs – mother, father, brother and sisters of the deceased claiming a compensation of Rs. 6,00,000/- under various heads inter alia pleading that the deceased died due to negligent driving of the offending vehicle. At the relevant time, she was aged about 13 years working as helped in her fathers cycle shop and was earning Rs. 1,000/- per month.

3. Pleading of the claimants have however been denied by the respondent/Insurance Company.

4. After evaluating the evidence available on record, the Tribunal has awarded compensation of Rs. 1,45,000/- @ interest at 6.5% per annum in favour of the appellants/claimants. Taking the notional income of the deceased as Rs. 15,000/- per annum applying the multiplier of 10 and deducting 1/3rd towards her personal expenses. Hence this appeal for enhancement.

5. Counsel for the appellants/claimants submits that the compensation awarded by the Tribunal is on the lower side and needs to be enhanced suitably. He further submits that learned Tribunal has

also failed in not taking future prospects as per the decision of the Apex Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, the learned Tribunal has committed gross error in holding the annual income as Rs. 15,000/-. Learned Tribunal has passed a contradictory order which is not suitable in the eye of law. The multiplier of only 10 was very low and in place of it multiplier of 17 is essential for these cases.

6. On the other hand, it has been argued on behalf of counsel for the respondent No.3/Insurance Company that in the facts and circumstances of the case, the compensation awarded by the Claims Tribunal is just and proper and requires no further enhancement.

7. Heard counsel for the parties and perused the documents on record.

8. Now this Court shall examine as to whether the compensation of Rs. 1,45,000/- awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the case.

9. From the pleadings of the respective parties and overall evidence on record, it is clear that the accident occurred with the offending vehicle which was insured with respondent No.3/Insurance Company and was being driven by respondent No.1. Evidence further goes to show that the offending vehicle was driven in a rash and negligent manner. It is clear from the evidence of applicants that the deceased was 13 years old who was assisting his parents in their cycle shop which is undisputed fact. In the light of decision of the Apex Court in the matter of ***Krishna Gopal Vs. Lala (2014 (1) SCC 244)***, it is just and reasonable to take her notional income at Rs. 30,000/- per

annum and further taking the age of the parents namely, the mother who was about 35 years old at the time of accident by applying legal principles laid down in ***Sarla Verma (2009) 6 SCC 121***, the multiplier of 15 can be applied to the multiplicand. Thus, Rs. 30,000/- x 15= Rs. 4,50,000/- and Rs. 50,000/- in the conventional heads towards loss of love and affection, funeral expenses, last rites as held in [Kerala SRTC v. Susamma Thomas](#) [4], which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also this Court awarded Rs.50,000/- under conventional heads. This amount would be fair, just and reasonable compensation to be awarded in favour of the appellants.

10. Thus, the total compensation including the amount awarded under the conventional heads' comes to Rs. 4,50,000/- + 50,000/- = 5,00,000/- for which the claimants are entitled to receive as compensation is just and proper for the death of deceased Chhaya. Since the Tribunal has already awarded Rs. 1,45,000/-, after deducting the same the claimants/appellants are entitled for enhancement amount of Rs. 3,50,000/-. This additional amount of compensation shall carry interest at the rate of 6%per annum from the date of filing of the application till its realization The amount received by the appellants would adjusted in the enhanced sum. Accordingly, the appeal is allowed in part.

Sd/-
(Rajani Dubey)
Judge

