

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 755 of 2017

1. Tukaram S/o Kheduram, Aged About 38 Years
2. Smt. Sarojkumari W/o Tukaram, Aged About 34 Years

Both are R/o Village Silli, Police Chowki Fastakpur Thana And
Tahsil Mungeli, District Bilaspur, Chhattisgarh.

---- Appellants

Claimants

Versus

1. Pradeep Singh @ Deepu Singh Sandhu S/o Gyan Singh, Aged About 24 Years R/o Dabra Kadhau Puliya Karra Form Thana Dabra, Distt. Gawaliyer M.P. Hall Mukam Tikrapara Raipur, ChhattisgarhDriver Of The Offending Vehicle Truck No. M.P.20 H.B. 1025, Chhattisgarh
2. Jogender Singh S/o Manjeet Singh, Aged About 50 Years A-1/19 Vinay Nager Sector-4 Gwaliyer M.P.Owner Of The Offending Vehicle Truck No. M.P.20 H.B. 1025, District : Gwalior, Madhya Pradesh
3. I.C.I.C.I. Lombard General Insurance Company Limited, Branch Office Shop No. 303, 304 Lal Ganga Shopping Complex G.E.Road Raipur, ChhattisgarhInsurer.

---- Respondent

For Appellants	:	Shri AL Singroul, Advocate.
For Respondent No.1 & 2	:	None.
For Respondent No.3	:	Shri Amrito Das, Advocate

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

08/10/2018 :

The appellants, parents of the deceased, filed an application for compensation under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.6 lacs. After considering evidence of both the

parties, the learned II Additional Motor Accident Claims Tribunal (FTC), Mungeli, Distt. Bilaspur, awarded total compensation of Rs.2.25 lacs in favour of the claimants with interest @ 6% per annum from the date of application till realization.

02. Being aggrieved by the aforesaid award dated 29.3.2011 passed in Claim Case No.5/2010, the appellants have filed the instant appeal for enhancement. However, no counter appeal has been filed by the respondents.

03. The Tribunal considering the evidence adduced by the parties held that on 15.12.2009 truck bearing No. MP 20-HB-1025, driven by respondent No.1 rashly and negligently, owned by respondent No.2 and insured with respondent No.3, dashed the deceased Mukesh, aged about 10 years, at Mungeli-Pandariya road, as a result of which he died; no breach of policy conditions was proved by the insurance company and thus awarded the aforesaid amount as compensation to the claimants.

04. Learned counsel for the appellants submits that the amount awarded by the learned Tribunal is very much on the lower side and needs to be enhanced suitably.

05. On the other hand, learned counsel for the insurance company supporting the impugned award submits that the amount awarded by the Tribunal is just and proper and needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. The Hon'ble Supreme Court in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244***, wherein a child aged about 10 years died in motor vehicular accident and the claimants were young parents, considering its various earlier decisions awarded Rs.4.50 lacs towards total loss of dependency. This Court in similar matter i.e. ***Smt. Safaribai Suryavansi and another Vs. Ajay Ku. Patel and others, 2015(2) CGLJ 399***, relying upon the aforesaid decision in *Kishan Gopal*, has also granted Rs.4.50 lacs towards total loss of dependency.

Further, in view of decision of the Hon'ble Supreme Court the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, Rs.30,000/- towards conventional heads is to be granted in the case like the present one.

08. Thus, in view of the aforesaid decisions, this Court is of the opinion that the appellants/claimants are entitled for a total sum of Rs.4.80 lacs as compensation. Since the Tribunal has already awarded Rs.2.25 lacs, after deducting the same, the claimants are held entitled for additional compensation of Rs.2.55 lacs with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge