

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 438 of 2016

Reserved on 1-8-2018

Decided on 9-8-2018

1. Sanat Kumar Yadav S/o Ratthuram Yadav, aged about 55 Years R/o Indira Chowk Kharwani, Police Station- Baramkela, District- Raigarh, Chhattisgarh, Chhattisgarh
2. Smt. Shakuntala @ Sakun W/o Sanatkumar Yadav, aged about 52 Years R/o Indira Chowk Kharwani, Police Station- Baramkela, District- Raigarh, ChhattisgarhClaimants, District Raigarh, Chhattisgarh

---- Appellants

Versus

1. Waseem Ansari S/o Shahjahan Ansari, aged about 23 Years Occupation- Driver, R/o Dhimrapur, Deendayal Colony, Raigarh, District- Raigarh, ChhattisgarhDriver, Chhattisgarh
2. Ajeem Khan S/o Subhan Khan, aged about 48 Years Occupation- Vehicle Owner, R/o Ward No. 7, Deepika Gevra Project, District- Korba, At Present R/o Bajee Rao Mohadapara, Raigarh, District- Raigarh, ChhattisgarhOwner, District : Raigarh, Chhattisgarh
3. Shriram General Insurance Company Limited, Office- E-8, E P I P Rico Industrial Area, Sitapur, Jaypur, District- Jaypur Rajasthan, District : Jaipur, Rajasthan

---- Respondents

For Appellants : Mr. Dharendra Prasad Mishra,
Advocate.

For respondent No.3 : Mr. Deepak Gupta, Advocate.

SB: Hon'ble Mr. Justice Ram Prasanna Sharma

CAV Order

1. The claimants/appellants, being unfortunate parents of the deceased and dependants on the deceased Bhageshwar Kumar Yadav who died in a motor accident, have preferred this appeal under Section 173 of the Motor Vehicle Act, 1988

against the award dated 10-11-2015 passed by the Motor Accident Claims Tribunal, Raigarh (CG) in Claim Case No. 30 of 2014, wherein the said Tribunal awarded compensation of Rs.4,26,000/- on account of death of their son in a motor accident occurred on 24-5-2013.

2. As per case of the claimant/appellants, on 24-5-2013 at about 11.15 pm deceased Bhigeshwar Kumar Yadav and one Pramod Kumar Yadav were going for medicine on a motorcycle and when they reached near Shaid Chowk, Raigarh, respondent No.1/driver of Dumper bearing registration No. CG 12-C/0568, owned by respondent No.2 and insured by respondent No.3, driving the said vehicle rashly and negligently dashed the motorcycle as a result of which the deceased died.
3. The matter was reported to Police Station Baramkela and thereafter the matter was investigated. The claimants being father and mother of the deceased filed the claim petition for compensation before the Tribunal and after hearing both the parties, the tribunal awarded the compensation as mentioned above.
4. Learned counsel for the appellants submits as under:
 - i) The deceased was working as computer operator and he was a skilled labour. Minimum wages of

skilled labour is prescribed, but the Tribunal had very miserly calculated the income of the deceased at Rs.100/- per day which is less than minimum wages and it has to be enhanced;

- ii) The compensation on conventional head awarded by the tribunal is on lower side and same deserves to be suitably modified.
 - iii) The Tribunal has not awarded compensation on account of future prospects. He placed reliance on the decision of Hon'ble Supreme Court in the matter of **Munna Lal Jain vs. Vipin Kumar Sharma and others, reported in 2015 (3) CGLJ 93 (SC)**.
 - iv) The amount awarded by the tribunal under various permissible heads is on lower side which requires to be enhanced.
5. On the other hand, learned counsel appearing for the respondent No.3 would submit that the finding arrived at by the Tribunal is based on proper assumption and the same cannot be termed as unjust or improper.

6. I have heard learned counsel for the parties and perused the record and impugned award passed by the Tribunal.
7. Claim of the appellants is based on the pleadings that the deceased was a Computer Operator and therefore, his income should be assessed to Rs.15,000/- per month, but no one examined by the appellants where the deceased was regularly working as a computer operator and getting salary of Rs.15,000/- per month. In absence of any evidence, income of the deceased shall be assessed to Rs, 6000/- per month as mentioned in the memo of appeal which comes to Rs.72,000/- per annum. As the deceased was bachelor, 50% shall be deducted as personal and living expenses as per law laid down by Hon'ble the Supreme court in the matter of **Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another, reported in (2009) 6 SCC 121** in which it is held that assuming that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time in which event the contribution to the parents and siblings is likely to be cut drastically. After deducting 50% of personal expenses, annual dependency of the parents of the deceased comes out to Rs.36,000/- per annum. As the deceased was age group between 25-30 years on the date of incident, if multiplier of 17

is applied, total dependency comes out to Rs.6,12,000/-. As far as future prospects are concerned, it is held in the matter of **Rajesh and others vs. Rajbir Singh and others, reported in (2013) 9 SCC 54**, by the Hon'ble Apex Court that if the deceased/victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. 50% is added for future prospects that comes out to Rs.3,06,000/-, in all comes out to Rs.9,18,000/-.

8. 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/-. In this way, the total sum requires to be awarded is Rs. 9,88,000/-.

9. Accordingly, the appeal is partly allowed and the award passed by the Tribunal is modified as under:

- i) Respondent No.3 Insurance Company shall pay Rs. 9,88,000/- to the appellants/claimants within 60 days from the date of passing of the order and will pay interest @ 9% from the date of filing the claim petition.
- ii) Respondent No.3 shall pay cost of the appellants through out.
- lii) The amount deposited shall be disbursed

to the appellants/claimants as per direction
of the Tribunal.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju