

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 413 of 2013
Reserved on 07/09/2018
Delivered on 25.10.2018

1. Duwas Bai, aged about 38 years, wife of Shri Kumbhkaran Baghel,
2. Kumbhkaran, aged about 40 years, son of Late Shri Chaitram Baghel,
3. Ku. Jyoti, aged about 13 years, daughter of Kumbhkaran,
4. Raj, aged about 11 years, son of Kumbhkaran Baghel,

Appellants No. 3 and 4 are the minors, through their natural guardian, mother- Duwas Bai (appellant No. 1).

All are R/o village Kirari, Police Station- Masturi, Distt.- Bilaspur (C.G.).

---- Appellants**Versus**

1. Rajesh Kumar aged about 35 years, son of Kanhaiya Kenwat, resident of village Pandhi, Tahsil Masturi, Distt.- Bilaspur (C.G.)
2. Neeraj Rai, son of Markhande Rai, resident of Ganesh Apartment, Mannu Chowk, Tikarapara, Distt.- Bilaspur (C.G.).
3. Branch Manager, ICICI Lombard General, E.K.Ltd. Bilaspur, Distt.- Bilaspur (C.G.).

---- Respondents

For Appellants	:	Shri N. P. Chandrawanshi, Advocate
For Respondent No. 1 & 2	:	None
For Respondent No. 3	:	Shri Amrito Das, Advocate

Hon'ble Shri Justice Gautam Chourdiya
CAV Judgment

1. This is claimants' appeal seeking enhancement of

compensation awarded by the 4th Additional Motor Accident Claims Tribunal, Bilaspur (for short 'the Tribunal') in claim case No. 04/2012 vide award dated 22.02.2013.

2. Facts of the case leading to filing of claim petition are that on the fateful day i.e. 20.06.2011, the respondent No. 1, while driving the Bus bearing registration No. CG 10-G/0639 rashly & negligently, dashed the deceased namely Surendra Kumar Bhaghel, who was at the time of accident 19 years of age and working as painter, as a result of which Surendra Kumar Bhaghel (since deceased) sustained multiple injuries on his body and succumbed to these injuries. In the instant case, appellants No. 1 & 2 are the parents of the deceased whereas appellants No. 3 & 4 are the sister and brother of the deceased.

3. As against compensation of Rs. 10,80,000/- claimed by unfortunate parents and siblings of deceased- Surendra Kumar Bhaghel, aged about 19 years, by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for the death of deceased in the motor accident on 21.06.2011, the Tribunal awarded a total sum of Rs. 1,90,000/- as compensation along with interest @ 6 percent per annum from the date of application till its actual payment to the appellants No. 1 & 2/claimants.

4. The Tribunal, on a close scrutiny of the evidence led, held : the accident had occurred due to involvement of Bus bearing No. CG – 10-b/0639 being driven by Rajesh Kumar (driver of the offending vehicle) dashing the deceased- Surendra Kumar Bhaghel who was standing be-

side the road. Learned Tribunal, after considering the material available on record including statement of the Manharan Tondan (AW-2), fastened the liability to pay compensation upon the respondent No. 3 /Insurance Company as it could not establish the violation of policy conditions and awarded aforesaid sum as compensation to the appellants No. 1 & 2/claimants.

5. Learned counsel for the appellants/claimants submits that the deceased was about 19 years of age but the Tribunal has erred in applying the multiplier of 10 in view of the judgment of the Supreme Court in the matter of **Sarla Verma (Smt.) & others V. Delhi Transport Corporation and another**¹, the learned Tribunal has considered the income of the deceased as Rs. 3,000/- per month, which is also on the lower side. He further submits that learned Claims Tribunal has not given any amount for future prospects and the amount awarded towards funeral expenses and loss of estate is also very much on the lower side.

6. On the other hand, learned counsel for respondent No. 3 submits that the amount awarded by the Claims Tribunal for the death of deceased- Surendra Kumar Bhaghel is just and proper, which does not call for any interference in the instant appeal.

7. I have heard learned counsel appearing for the parties and perused the impugned award including the record of Claims Tribunal.

8. So far as income of the deceased is concerned, the deceased was at the time of accident 18 years as is evident from the postmortem report (Ex. P/7) and there is no specific evidence regarding his income except the statements of his mother Duwas Bai, (AW1) & Sanuj Kumar (AW2) who have stated in their evidence that that deceased was painter and the painting work is the seasonal work. Therefore, without there being any specific evidence regarding income, as per evidence available on record,

¹ 2009 (6) SCC 121

the learned Tribunal has considered Rs. 3,000/- as monthly income of the deceased at the time of accident i.e. 20.06.2011, which in the considered opinion of this Court, can not be faulted with. However, towards future prospects nothing has been awarded by the Tribunal. Therefore, keeping in view the decision in **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680.** & **Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr.** reported in **2009 (6) SCC121**, I propose to re-compute the amount of compensation as under :-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs. 3,000x12= 36,000/- per annum
02.	40% of above to be added towards future prospects	Rs. 36000+14400= 50400/-
03.	1/2th deduction towards personal and living expenses of the deceased	Rs. 50400/2= 25200/-
04.	Multiplier of 18 to be applied	Rs. 25200x18= 453600/-
05	Towards loss of estate, and for funeral expenses	Rs. 30,000/-
	Total Compensation	Rs.4,83,600/-

9. Thus, the claimants would become entitled for Rs. 4,83,600/- as compensation in place of Rs. 1,90,000/- as awarded by the Tribunal.

10. In view of foregoing, the appeal is allowed in part. The compensation of Rs. 1,90,000/- awarded by the Tribunal is enhanced to Rs. 4,83,600/-. The above enhanced amount of compensation of

Rs.2,93,600/- shall carry interest @ 6 percent per annum from the date of application till its actual payment. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

11. The respondent No. 3/ ICICI Lombard General, E.K. Ltd., Bilaspur is granted three months' time to deposit enhanced amount of compensation of Rs. 2,93,600/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge