

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 918 of 2014

1. Prabhu Prakash Ekka S/o Matiyas Ekka, aged about 30 years, Caste-Uraon
2. Matiyas Ekka S/o Late Kheksho Ekka, aged about 54 years
3. Minor Ku. Ruth Ekka D/o Prabhu Prakash Ekka, aged about 11 years
4. Minor Ku. Anubha Ekka D/o Late Prabhu Prakash Ekka, aged about 06 years

No. 3 & 4 minors, through-natural guardian father Prabhu Prakash Ekka

All R/o Village- Budhadand, Police Station & Tahsil- Bagicha, District- Jashpur (C.G.) Civil & Revenue District- Jashpur (C.G.)

---- Appellants/Claimants

Versus

1. Fajal Huq S/o Abdul Huq, aged about 43 years, Occupation- Business, R/o Kharsiya Naka Ambikapur, Police Station & Tahsil- Ambikapur, District Sarguja (C.G.)
2. Surjeet Singh @ Sita S/o Mahendra Singh, aged about 50 years, Occupation- Driver, R/o Kedarpur Ambikapur, Police Station & Tahsil- Ambikapur, District Sarguja (C.G.)
3. The Oriental Insurance Co. Ltd. Local Branch Office- Raigarh, District Raigarh (C.G.) Civil & Revenue District Raigarh (C.G.)

---- Respondents

For Appellants/Claimants : Shri Rishi Mahobia and Shri S.S. Painkara, Advocates

For Respondents 1 : Shri Rishi Sahu, Advocate

For Respondent No.3 : Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

12.12.2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimants, seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Jashpur (C.G.) vide award dated 05.09.2012 passed in Motor Accident Claim No. 10 of 2011.

2. Facts of the case, in brief, are that deceased-Marshal Ekka, 45 years of age, was a teacher at Deepak Janta Higher Middle School, Harradeepa. Further, the facts of the case are that on 27.04.2008 at about 09:00 AM, the deceased was coming on a Motorcycle from Jashpur, at that time, the offending vehicle Bus bearing registration No. CG-15 -6456 coming from Jashpur towards Astha driven by the Respondent No.2 in a rash and negligent manner dashed the motorcycle of the deceased near chidiya-bada culvert. The deceased sustained injuries on head, hands and legs and as a result thereof, he died.

3. The Claimants filed a claim petition before the Tribunal under Section 166 of the Motor Vehicles Act, 1988 for the death of deceased in the motor accident claiming Rs.28,85,000/- as compensation.

4. The learned Tribunal by the impugned award after considering the evidence available before it, has awarded a compensation of Rs.10,32,120/- in favour of the Claimant No. 2 with simple interest @ 06% per annum from the date of application till its realization and also directed that if the compensation amount has not been paid within a month, the said amount shall carry interest @ 09% per annum.

5. Learned counsel for the Appellants/Claimants submits that looking to the age of the deceased i.e. 45 years, the Tribunal has wrongly applied the multiplier of 13 and it should have been 14. He also submits that the amount of Rs.5,000/- towards funeral expenses and Rs.10,000/- towards mental agony awarded by the Tribunal in on lower side and the same deserves to be enhanced to Rs.15,000/- each respectively. Lastly, he submits that the Tribunal has not awarded any amount towards future prospect and this may also be granted in this appeal in view of **National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680.**

6. Learned counsel for the Respondents 1 and 3, however, oppose the appeal and submits that the learned Tribunal has rightly awarded the amount of

compensation, therefore, it is just and reasonable, which does not call for any interference in the instant claim petition.

7. No counter appeal has been filed the Insurance Company/Respondent No.3 and Respondent No.1.

8. I have heard the learned counsel appearing for the Claimants as also the Respondents and perused the impugned award including the records of the Claims Tribunal.

9. Considering the facts and circumstances of the case, the evidence available on record, looking to the age i.e. 45 years of the deceased, the multiplier of 13 has wrongly been applied by the Tribunal, therefore, it can safely be taken as 14 in the instant appeal. This apart the Tribunal has awarded only Rs.5,000/- for funeral expenses and Rs.10,000/- for mental agony which is on the lower side and in the facts and circumstances of the case, deserves to be enhanced to Rs.15,000/- each respectively. Further, looking to the age of the deceased i.e. 45 years and nature of his job, 30% towards future prospects can also be given to the Claimants. In view of the above, the Claimants/Appellants are entitled for compensation in the following manner :

Sl.No.	Head	Calculation
1	Income of the deceased	Rs.13,041/- per month
2	Now annual income of the deceased	Rs.13,041/- x 12 = 1,56,492/- per annum
3	30% towards future prospects added to annual income	(Rs.1,56,492/- + Rs.46,948/-) Rs.2,03,440/-per annum
4	½ deduction towards personal expenses of the	Rs.1,01,720/-

	deceased	
5	Multiplier of 14 applied	Rs.1,01,720/-x 14= Rs14,24,080/-
6	Funeral expenses	Rs.15,000/-
7	Mental agony	Rs.15, 000/-
	Total	Rs.14,54,080/-

Since the Tribunal has already awarded Rs.10,32,120/-, after deducting the same from the above amount, the Claimants are held entitled for additional compensation of Rs.4,21,960/-.

10. Resultantly, the appeal is allowed in part and the impugned award is modified to the extent that the Claimants/Appellants shall be entitled to a total enhanced amount of compensation of Rs.4,21,960/- with further direction of payment of interest on the enhanced amount of compensation @ 6% per annum from the date of filing of the claim petition till the date of actual payment. However, rest of the conditions of the impugned award shall remain intact.

11. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge