

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 77 of 2014

1. Preetam Jaiswal S/o Jagdish Jaiswal Aged About 30 Years

2. Smt. Sati Devi W/o Preetam Jaiswal Aged About 26 Years

Both are R/o Charkhura, P.S. Pandatarai, Tah. Pandaria, Distt. Kabirdham C.G.

---- Appellants

Claimants

Versus

1. Bhupendra Jaiswal S/o Jagdish Jaiswal Aged About 27 Years
R/o Charkhura, P.S. Pandatarai, Tah. Pandaria, Distt. Kabirdham
C.G., Chhattisgarh, Occupation – Tractor driver,

2. Branch Incharge Arun Agriculture Tractor Show Room, Branch
Kawardha-Raipur Main Road, Kawardha, Distt. Kabirdham C.G.

3. Ifco Tokio General Insu.Co.Ltd. Thru- The Branch Manager,
Branch Raipur Second Floor, Shop No. 345-347, Lalganga
Shopping Mall, G.E. Road, Raipur C.G., District : Raipur,
Chhattisgarh

---- Respondent

For Appellant	:	Shri VP Thakur, 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.52.80 lacs. After considering evidence of both the parties, the learned Motor Accident Claims Tribunal, Kabirdham (Kawardha) awarded total compensation of Rs.51,000/- in favour of the claimants with interest @ 7.5% per annum from the date of application

till realization.

02. Being aggrieved by the aforesaid award dated 14.11.2013 passed in Claim Case No.45/2012, 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 22.2.2012 Tractor Mahindra & Mahindra (New Sold), driven by respondent No.1 rashly and negligently, owned by respondent No.2 and insured with respondent No.3, dashed the deceased Dikesh Kumar, aged about 7 years, at Village-Charkhura, 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.51,000/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.4.29 lacs with interest @ 7.5% 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