

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 95 of 2014**

1. Smt. Narmada Bai Jagat W/o Late Kanshi Ram Jagat, aged about 48 years,
2. Santosh Kumar S/o Late Kanshi Ram Jagat, aged about 17 years,
3. Sher Singh Jagat S/o Late Kanshi Ram Jagat, aged about 15 years,

Appellant No. 2 & 3 are minor through their legal guardian mother Smt. Narmada Bai Jagat W/o Late Kanshi Ram Jagat, aged about 48 years,

All are resident near by Pani Tanki Ashok Nagar Sarkanda, Tahsil & District Bilaspur, civil & Revenue District- Bilaspur (C.G.).

---- Appellants**Versus**

1. Harichand S/o Rajkumar @ Badku R/o Kasturba Nagar Police Station Civil Line, Tahsil & District- Bilaspur (C.G.)
(Driver of alleged vehicle Truck bearing registration No. C.G. 10/A/8694)
2. Smt. Sugar Bano W/o Shri Gafur Ali R/o Taiba Chowk Talapara Police Station Civil line, Tahsil & District- Bilaspur (C.G.)
(Owner of alleged vehicle Truck bearing registration No. C.G. 10-A/8694)
3. Shriram General Insurance Company Ltd. Through Branch, Office, Head Office, E/8, E.P.I.P. rico Industrial Area Sitapur, Jaipur (Rajasthan)
(Insurer of alleged vehicle Truck bearing registration No. C.G. 10/A- 8694).

----- Respondents

For Appellant	: Shri Anil Gulati, Advocate
For Respondent No. 3	: Shri Deepak Gupta, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

13.11.2018

1. This is claimants' appeal seeking enhancement of compensation awarded by the 1st Motor Accident Claims Tribunal, Bilaspur (for short 'the Tribunal') in claims case No. 203/2011 passed on 22.10.2013.

2. Facts of the case leading to filing of claim petition are that on the fateful day i.e. on 06.05.2011, deceased Kanshi Ram Jagat while driving his TVS Moped, dashed the Truck bearing registration No. C.G. 10/A/8694, which was parked by its driver – respondent No.1- Harichand in the mid way of the road in a rash & negligent manner, as a result of which he sustained multiple injuries and during the course of treatment he died on 29.06.2011.

3. As against the compensation of Rs. 37,00,000/- claimed by the unfortunate wife, children of deceased -Kashi Ram Jagat, aged about 50 years, by filing claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'MV Act') for the death of deceased on 29.06.2011 in the motor accident occurred on 6.5.2011, the Tribunal awarded a total sum of Rs. 5,44,000/- as compensation along with interest @ 6 percent per annum from the date of application till its realization to the appellants/claimants.

4. The Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, held : the accident had occurred due to involvement of offending vehicle Truck bearing registration No. C.G. 10/A/8694, which was parked by its driver –

respondent No.1- Harichand in the mid way of the road in a rash & negligent manner. Learned Tribunal, after considering the material available on record fastened the liability to pay compensation upon the respondent No. 3/Insurance Company as it could not establish the violation of policy condition and awarded aforesaid sum as compensation to the appellants/claimants.

5. Learned counsel for the appellants/claimants submits that the Tribunal has fallen in error in not awarding any sum towards future prospect as in light of judgment rendered by the Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, 10% future prospect should be added in the yearly income of the deceased. He submits that according to the aforesaid judgment of the Supreme Court in the matter of **Pranay Sethi (supra)**, the Tribunal has fallen in error in not awarding sum towards incidental heads and thereby awarding low amount of compensation, which deserves to be suitably enhanced.

6. On the other hand, learned counsel for respondent No. 3/Insurance Company submits that the amount awarded by the Claims Tribunal for the death of deceased- Kashiram Jagat 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. The deceased was 50 years old and was working as Commission Agent for sale & purchase of vegetables. The Tribunal after assessing the monthly income of deceased as Rs. 4,500/- i.e. Rs. 54,000/- per annum, deducted 1/3rd of it towards his personal expenses and applied multiplier of 9 and awarded Rs. 3,24,000/- on account of loss of dependency. The Tribunal has further awarded Rs. 5,000/- on account of funeral expenses, Rs.5000/- on account of loss of estate, Rs.10,000/- towards loss of consortium and Rs. 2,00,000/- towards medical expenses as per medical bills submitted by the claimants vide Exs. P-6 & P-7 thus has awarded a total sum of Rs. 5,44,000/-.

9. A careful perusal of the award would show that on the head of future prospects and incidental head, nothing has been awarded by the Tribunal. Therefore, keeping in view of the decision in **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, I propose to re-compute the amount of compensation as under:-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs. 4,500 x12 =54,000 per month

02.	10% of above to be added towards future prospects	Rs54,000 +5,400=59,400/-
03.	1/3rd deduction towards personal and living expenses of the deceased as deducted by the Tribunal	Rs. 59,400-Rs.19,800/- =39,600/-
04.	Multiplier of 9 to be applied	Rs. 39,600 x 9= 3,56,400/-
05	Towards incidental heads(consortium funeral and loss of Estate) + Towards Medical Bills vide Ex.P-6 as awarded by the Tribunal	Rs.70,000/- +Rs.2,00,000/- =Rs.2,70,000/-
05	Total compensation	Rs.6,26,400/-

10. Thus, the claimants would become entitled for Rs.6,26,400/- as compensation in place of 5,44,000/- as awarded by the Tribunal.

11. In view of foregoing, the appeal is partly allowed. The compensation of Rs.5,44,000/- awarded by the Tribunal is enhanced to Rs.6,26,400/-. The above enhanced amount of compensation of Rs.82,400/- shall carry interest @ 6% 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.

12. The respondent No. 3/Insurance Company is granted two months' time to deposit enhanced amount of compensation of Rs.82,400/- along with interest before the concerned Tribunal. No

order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita