

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 648 of 2017**

- Oriental Insurance Company Ltd., the Branch Manager, Division No. 3 Branch Raipur (C.G.).

---- Appellant**Versus**

1. Smt. Jaybati Netam wife of late Ram Singh Netam, aged about 45 years,
2. Anil Kumar Netam son of late Ram Singh Netam, aged about 18 years,

Both are resident of Village- Dhanora, Police Station- Dhanora, Tashil- Keshkal, District- Kondagaon (C.G.).

3. Sushant Majumdar son of Shankar Majumdar, aged about 35 years, resident of Village Borgaon (Singarpuri), Police Station- Farasgaon, District- Kondagaon (C.G.).

---- Respondents

For Appellant	: Shri Gautam Khetrapal, Advocate & Ms. Priya Sharma, Advocate
For respondent No. 3	: Shri Praveen Dhurandhar, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

01.12.2018

1. This is Insurer appeal against the award passed by the Motor Accidents Claims Tribunal, Kondagaon, District Kondagaon (for short 'the Tribunal') in claim case No. 04/2015 vide award dated 03.02.2017.
2. Facts of the case leading to filing of the claim petition is that on 23.02.2014, deceased- Sunil Netam was going from Jaitpuri to Lanjoda

in his motorcycle bearing registration No. CG-17-K-4995, at that time near village Lanjoda National Highway No. 30, the respondent No. 3- Sushant Majumdar, who was driving the offending vehicle Bolero bearing registration No. CG-04-JF-1413 rashly and negligently dashed the motorcycle of deceased, as a result of which he sustained grievous injuries and died on the spot.

3. The Tribunal, on a close scrutiny of the evidence led, held : the accident had occurred due to rash and negligent driving of Bolero bearing registration No. CG-04-JF-1413 by its driver Sushant Majumdar i.e. respondent No. 3; Sunil Kumar Netam sustained multiple injuries in the said accident; appellant/Insurance Company liable for payment of compensation to the claimant as it could not establish violation of policy conditions. Considering the facts & circumstances of the case, the Tribunal awarded a total amount of Rs.25,98,776/- alongwith interest @ 9% per annum from the date of application till its actual payment.

4. Learned counsel for the appellant submits that the learned Tribunal has wrongly considered the gross salary of the deceased in paragraph 17 of the award as Rs.15,448/- but the original salary as per salary slip vide Ex. P/10 of the deceased specifically mentioned the gross salary Rs. 13,548 and also learned Tribunal considered in para 17 of the award the salary of the deceased is Rs. 13,548 but the calculation was done with Rs. 15,548, therefore, the mistake should be rectified and the salary of the deceased should be considered as Rs. 13,548/- for the purpose of computation of compensation. He submits that the amount of compensation awarded by the Tribunal is shockingly on higher side

which deserves to be suitably reduced. No other points have been raised by the learned counsel for the appellant.

5. Learned counsel for the respondents/claimants submits that amount of awarded by the Tribunal is just & proper, which does not call for any interference.

6. I have heard learned counsel for the appellant/claimant and perused the impugned award.

7. It is apparent on the record that the learned Tribunal considered gross salary of the deceased is Rs. 13,548/- but when calculation is made salary of Rs. 15,548/ has been considered whereas it should be Rs. 13,548/- per month. Therefore, I propose to re-compute the amount of compensation by taking into consideration the income of the deceased as Rs.13,548/- per month in place of Rs.15,548/- per month as assessed by the Tribunal.

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs. 13,548/- per month
02.	50% of above to be added towards future prospects	Rs. 13,548 +Rs.6,774/- =20,322/-
03.	1/2th deduction towards personal and living expenses of the deceased	Rs.20,322/2 = Rs.10,161/-
04.	Multiplier of 18 to be applied	Rs. 10,161/-x12x18 = 21,94,776/-
05	Towards loss of estate, love & affection and for funeral expenses as awarded by the Tribunal	Rs.5,000+50,000/-+25,000/- =Rs.80,000/-
	Total Compensation	Rs.22,74,776/-

8. Thus, the claimants would become entitle for Rs. 22,74,776/- as compensation in place of Rs.25,98,776/- as awarded by the Tribunal.

9. For the reasons mentioned hereinabove, the appeal is allowed in part. The amount of compensation awarded by the Tribunal i.e. Rs. 25,98,776/- is reduced to Rs. 22,74,776/-. The aforesaid amount shall carry interest @ 9 percent per annum from the date of application till its actual payment. Rest of all the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

10. Needless to say that the amount already deposited by the Insurance Company with the Tribunal shall be adjusted in the aforesaid amount of compensation assessed by this Court.

Sd/-
(Gautam Chourdiya)
Judge

Amita