

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 405 of 2018**

1. Santosh Thakur S/o Ram Dayal Thakur Aged About 48 Years,
2. Smt. Geeta Thakur W/o Santosh Thakur Aged About 45 Years

Both R/o Bazar Chowk Khamtarai Thana Khamtarai District Raipur,
Chhattisgarh.

---- Appellants**Versus**

1. Chandra Kumar Yadav Aged About 24 Years S/o Shiv Kumar Yadav R/o
Village Chunkhatta Thana Utai District Durg, Chhattisgarh

(Driver Of The Offending Vehicle Truck No. C.G.07/c.A./2347)

2. Amit Kumar Singhal S/o Mahendra Kumar Singhal R/o 1/12 Surya
Apartment Modal Town Bhilai District Durg, Chhattisgarh (Owner Of The
Offending Vehicle Truck No. C.G.07/c.A./2347),
3. The National Insurance Company Limited Through Divisional Manager
Address Mobin Mahal G.E.Road Raipur, Chhattisgarh (Insurer Of The
Offending Vehicle Truck No. C.G.07/c.A./2347)

---- Respondents

For Appellants	Shri A.L. Singroul, Advocate.
For Respondent No.3	Shri Sanjay Patel, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****09/10/2018**

Heard on **I.A. No.1**

This is an application for condonation of delay of 07 days in filing
the appeal.

For the reasons mentioned in the application which is supported
by affidavit, the same is allowed and the delay in filing the appeal
is condoned.

Also heard on admission.

The appeal being arguable is admitted for hearing.

Heard finally with the consent of learned counsel for the parties.

1. This is claimant's appeal for enhancement of compensation awarded by the 4th Additional Motor Accidents Claims Tribunal, Raipur, C.G. in Claim Case No. 198/2017 vide award dated 30.10.2017.
2. As against the compensation of Rs.20,50,000/- claimed by the unfortunate parents of deceased –Kumari Sima Thakur by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for her death in the motor accident dated 03.02.2017, the Tribunal has awarded a total sum of Rs.2,70,000/- as compensation along with interest at 9% per annum from the date of application till its actual payment.
3. The Tribunal, on a close scrutiny of the evidence led before it, held that the accident had occurred due to rash and negligent driving of Truck bearing registration No. CG 07/CA/2347 by its driver Chandra Kumar Yadav; deceased –Kumari Sima Thakur died on account of injuries sustained by her in the said accident; respondent No.3/the National Insurance Company Limited is liable for payment of compensation as it could not establish violation of policy conditions; assessed and awarded the aforesaid amount of compensation along with interest at 9% per annum from the date of application till its actual payment.
4. Learned counsel appearing for the appellants submits that Tribunal has wrongly assessed the income of the deceased as Rs.30,000 per annum whereas she was earning Rs. 6,000/- per month by running

tution classes. He further submits that Tribunal has erred in applying the multiplier passed on the age of the deceased ought to have been considered for applicability of multiplier 18. This apart the Tribunal has also not awarded any amount towards future prospect and in view of the decision of Hon’ble Supreme Court in the matter of **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**, 40% should have been added to her annual income towards future prospect. Therefore, the compensation may be recalculated and enhanced suitably.

- 5. On the other hand, learned counsel appearing for respondent No.3 would submit that the amount of compensation awarded by the Tribunal is just and proper compensation in the facts and circumstances of the case and needs no interference.
- 6. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.
- 7. Though, in the present case no document in respect of income of the deceased has been produced by the claimants, however, in such cases notional income is to be considered. Thus, the notional income of the deceased is taken as Rs.4,500/- per month i.e. Rs. 54,000/- per annum. Considering the age i.e. 17 years and status of the deceased in view of, decision of the Hon’ble Supreme Court in the Pranay Sethi (supra) the claimants held entitled for compensation in the following manner:-

Head	Calculation
Income of the deceased	Rs.4,500/- x 12 = Rs.54,000/- per annum.

40% towards future prospect	Rs.21,600/- Rs.54,000 + Rs.21,600=75,600/-
50% deduction towards personal and living expenses of the deceased as she was unmarried.	37,800/-
Multiplier of 18 applied	Rs.37,800 x 18 =6,80,400/-
For loss of estate and funeral expenses	Rs.30,000/-
Total	Rs.7,10,400/-

8. Since, the Tribunal has already awarded a sum of Rs.2,70,000/-, after deducting the same from the amount as calculated above, the claimants are held for an additional compensation of Rs.4,40,400/-. This additional amount shall carry interest at the rate of 9% per annum from the date of claim application till its realization. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

9. No order as to costs.

Sd/-
Gautam Chourdiya
Judge

Akhilesh