

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 415 of 2018**

1. Laxman S/o Kandarua Aged About 38 Years,
2. Smt. Malati W/o Laxman Aged About 35 Years,

Both are R/o Village Darbha, District Bastar, Chhattisgarh.

----Appellants**Versus**

1. Rishabh Dev Tiwari S/o Tameshar Prasad Tiwari Aged About 25 Years
R/o Village Dhaneli P.S. Gurur District Balod, Chhattisgarh (Driver).
2. Parabjeet Singh Siddhu S/o Gurudev Singh Aged About 40 Years R/o
Doc Bangala Ward Dhamtari District Dhamtari, Chhattisgarh (Owner).
3. The Branch Manager The Oriental Insurance Co. Ltd. Laxman Avenue
Jagdalpur District Bastar, Chhattisgarh (Insurer)

---- Respondents

For Appellants	Shri Praveen Dhurandhar, Advocate.
For Respondent No.3	Shri Kapil Maini, Advocate.

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

1. The appellants, parents of the deceased, filed an application for compensation under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.16,72,000/-. After considering evidence of both the parties, the learned Motor Accident Claims Tribunal, Bastar place Jagdalpur C.G. awarded total compensation of Rs.2,30,000/- in favour of the claimants with interest @ 9% per annum from the date of application till realization.

2. Being aggrieved by the aforesaid award dated 09.02.2018 passed in Claim Case No.50/2017, the appellants have filed the instant appeal for enhancement. However, no counter appeal has been filed by the respondents.
3. The Tribunal considering the evidence adduced by the parties held that on 25.10.2016 Truck bearing registration No. CG04-HN-3197, driven by respondent No.1 rashly and negligently, owned by respondent No.2 and insured with respondent No.3, dashed the deceased Shankar Nag, aged about 14 years, near Tanga Jodi Bridge, Police Station Darbha, District-Bastar, 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.
4. 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.
5. 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.
6. Heard learned counsel for the parties and perused the material available on record.
7. 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 14 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.

8. 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.
9. 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.4,80,000/- as compensation. Since the Tribunal has already awarded Rs.2,30,000/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.2,50,000 with interest @ 9 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