**NAFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

**MAC No. 635 of 2017**

1. Ramu Singh S/o Late Guljar Singh, Aged About 44 Years R/o Village Pathariya Tahsil Mungeli District Bilaspur, Chhattisgarh, Chhattisgarh
2. Natraj Singh S/o Ramu Singh Kshatriya, Aged About 21 Years R/o Village Pathariya Tahsil Mungeli District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Shivraj Singh S/o Ramu Singh Kshatriya, Aged About 19 Years R/o Village Pathariya Tahsil Mungeli District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Rukhamani Devi W/o Late Guljar Singh, Aged About 64 Years R/o Village Pathariya Tahsil Mungeli District Bilaspur, Chhattisgarh ..............Claimants, District : Bilaspur, Chhattisgarh

**---- Appellants.**

**Versus**

1. Trilok Vishkarma S/o Khikhram Vishkarma, Aged About 30 Years R/o Near New Mandi Chulghat Road Takhatpur Tahsil Takhatpur District Bilaspur, Chhattisgarh ...............Driver Of The Offending Vehicle No. C.G.10 F 5907, Chhattisgarh
2. Khikhram Vishkarma S/o B.Vishkarma, Aged About 50 Years R/o Near New Mandi Chulghat Road Takhatpur Tahsil Takhatpur District Bilaspur, Chhattisgarh ...............Owner Of The Offending Vehicle No. C.G.10 F 5907, District : Bilaspur, Chhattisgarh
3. National Insurance Company Limited, Branch Office Bilaspur, Distt. Bilaspur, Chhattisgarh ..............Insurer, District : Bilaspur, Chhattisgarh

**---- Respondents**

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| For the appellants | : | Mr. Arujun Lal Singroul, Advocate. |
| For respondents | : | None |

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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order on Board**

**16-7-2018.**

1. The claimants/appellants being husband, sons and grand-mother of the deceased and dependants on the deceased Annapurna Singh who died in a motor accident on 28-1-2010, have preferred this appeal against the award dated 4-3-2014 passed by the Additional Motor Accident Claims Tribunal, Mungeli, District

Bilaspur (CG) in Claim Case No. 76 of 2011, wherein the said Tribunal awarded compensation of Rs.1,60,000/- on account of death of one Annapurna Singh in a motor accident.

2. As per case of the claimant/appellants, on 28-1-2010 deceased Annapurna Singh was sitting in a Maruti Van bearing registration No. CG-10-F/5907 driven by respondent No.1 Trilok Vishkarma and due to rash and negligent driving of the said driver, the said vehicle turned turtle resulting in the instant death of the deceased on the spot.

3. Learned counsel for the claimants/appellants would submit that the finding of the claims tribunal is contrary to the documents and evidence available on record and the tribunal failed to consider the facts and evidence available on record in its proper perspective. He would further submit that the amount awarded by the tribunal under various permissible heads is on lower side which requires to be enhanced.

4. I have gone through the impugned award passed by the Tribunal.

5. The policy issued by respondent No.3 was a package policy and it was a comprehensive policy. From the oral and documentary evidence adduced by the claimants, it is established that the deceased died due to rash and negligent driving of respondent No.1 -Trilok Vishkarma. The core issue for consideration of this

Court is whether the award passed by the Tribunal is just compensation or not. The Tribunal assessed the notional income of the deceased to the tune of Rs.15,000/- per annum. Notional income can be calculated on the basis of minimum wages prevailing on the date of incident which is 28-1-2010. On the said date minimum wages prevailing was Rs.150/- per day., therefore, notional income of the deceased comes to Rs.4,500/- per month. If 1/3rd of the said amount is deducted for her personal expenses and remaining Rs.3,000/- per month is loss of dependency of the claimants that comes out to Rs.36,000/- per annum. As the age of the deceased 42 years on the date of incident, if multiplier is applied, dependency would be 15 which comes out to Rs.5,40,000/-.

6. As per law laid down by Hon'ble the Apex Court in the matter of **National Insurance Company Limited vs. Pranay Sethi, reported in AIR 2017 SC 5157,** the amount on conventional head is Rs.70,000/-. In this way, the total sum requires to be awarded is Rs.6,10,000/-. In the matter of **Bhagyalakshmi and others vs. United Insurance Company Limited and another, reported in 2009 (7) SCC 148,** it is held that comprehensive policy covers the risk of gratuitous passengers to the extent of liability incurred. If owner or driver is driving the vehicle covered by comprehensive policy in which wife and children of the owner

are sitting, then occupant in a vehicle is covered by the comprehensive policy, therefore, the Insurance Company is liable to pay the compensation.

7. Accordingly, the appeal is allowed. Respondent No.3 Insurance Company shall pay Rs.6,10,000/- the appellants/claimants within 60 days from the date of passing of the order, failing which 9% interest per annum shall be charged. If any amount is deposed by the Insurance Company in this regard, the same shall be adjusted. After liquidation of the award, the appellant/Claimant No. Ramu Singh who is husband of the deceased will get Rs.3,10,000/- through transfer of fund from the account of the Tribunal and from the remaining Rs.3,00,000/-, claimants/appellants No. 2 to 4 will get Rs.1,00,000/- each through transfer of fund from the account of the Tribunal.

Sd/-

**(Ram Prasanna Sharma)**
**JUDGE**

Raju