

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1029 of 2013

1. Smt.Usha Bai, W/o Late Satanand, Aged About 28 Years,
2. Master Shekhar Jaiswal, S/o Satanand, Aged About 8 Years,
3. Master Sumit Jaiswal, D/o Late Satanand, Aged About 5 Years,
4. Smt. Ram Bai, W/o Ramayan Jaiswal, Aged About 52 Years,
5. Ramayan Jaiswal, S/o Late Brijlal, Aged About 54 Years,

Appellants No.02 to 3 are minor through her mother Smt. Usha Bai (appellant No.1)

All are R/o Baksahi Pali, District : Korba, Chhattisgarh

---- Appellants

Versus

1. Hariram Sahu, S/o Ramayan Sahu Aged About 31 Years, R/o Pankhdafai Surkachhar Bankimongara, Korba, Chhattisgarh
2. Neeraj Dubey, Through- Jai Ambe Freight Carrier Bhanpuri, District : Raipur, Chhattisgarh
3. I.C.I.C.I. Lombard General Insurance Co. Ltd. Thru- Branch Manager, Devendra Nagar, District : Raipur, Chhattisgarh

---- Respondents

For Appellants	:	Shri Pravin Kumar Tulsyan, Adv.
For Respondents 1&2	:	None
For Respondent No.3	:	Shri Amrito Das, Advocate

Hon'ble Smt Justice Rajani Dubey

Order On Board

13/12/2018

1. This appeal arises out of the award dated 24.08.2013 passed by Additional Motor Accident Claims Tribunal (for short the "Tribunal"), Korba (C.G.), in Claim Case No.07/2013 awarding a compensation of Rs.4,66,500/- in favour of the appellants/claimants for the death of Satanand.
2. Facts of the case in brief are that on 31.08.2012 at about

9.50 PM, Satanand was going to his house Baksahi from Pali and when he reached near T.P. Nagar petrol pump, a toiler bearing registration no. CG-04-JC-07241 driven by respondent No.1 herein, in a rash and negligent manner, came from behind and dashed him as a result of which Satanand sustained grievous injuries and died on the spot. A claim petition was filed by the appellants/claimants (wife, son, mother and father) who happens to be the legal heirs of the deceased claiming a compensation of Rs.14,90,000/- *inter alia* pleading that the deceased at the relevant time was aged about 32 years, he was skilled labour and working as Mason and earning Rs.6,000/- per month.

3. Pleading of the claimants have, however, been denied by the respondent/insurance company.

4. After evaluating the evidence available on record, the Tribunal has awarded the compensation of Rs.4,66,500/- along with interest @ 6% per annum in favour of the appellants/claimants taking the monthly income of the deceased as Rs.3,000/- per month and Rs.36,000/- per annum, applying the multiplier of 12 and deducting 1/4th towards his personal expenses. Hence, this appeal for enhancement.

5. Counsel for the appellants/claimants submits that the Tribunal has erred in law in not awarding adequate compensation to the claimants. He further submits that the yearly income has been considered by the Tribunal as

Rs.36,000/- whereas it ought to have been considered Rs.72,000/- per annum. Learned counsel for the appellants further argued that the claims Tribunal has also failed in not taking future prospect as per the ratio laid down in the case of **Santosh Devi v. National Insurance Co. Ltd¹**. It has been also submitted that the amount awarded under the conventional heads is also on the lower side and deserves to be enhanced suitably.

6. On the other hand, counsel for the respondent/insurance company supports the award impugned.

7. Heard counsel for the parties and perused the documents on record.

8. In a motor accident claim case, what is important is that, the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation, nor a Bonanza.

9. Now this Court examine as to whether the compensation of Rs.4,66,500/- awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the case.

10. The claimants/appellants pleaded that deceased used to earn Rs.6,000/- per month by working as Mason, no cogent and reliable evidence was led before the Tribunal to establish

¹ 2012 (6) SCC 421

the income of the deceased to the extent of Rs.6,000/- per month. Therefore, this Court do not find any fault in the approach of the Tribunal in discarding the appellant's evidence about the income of the deceased. Nevertheless, the income of the deceased assessed by the Tribunal at Rs.3,000/- per month and Rs.36,000/- per annum in the year 2012 is certainly on the lower side and requires reconsideration. That apart, considering the evidence available on record, this Court is of the view that the age of the deceased between 30-35 year has rightly been assessed by the Tribunal and accordingly this Court proceed to decide the claim.

11. Considering that deceased Satanand, on the date of accident, was aged in between 30-35 year and at the time of incident he was skilled labour, this Court is of the opinion that he could have easily earned Rs.6,000/- per month in the year 2012 by doing mason work. This court, therefore, propose to recompute the compensation taking the monthly income of the deceased at Rs.6,000/- per month and Rs.72,000/- per annum. The deceased was married and between 30-35 years of old at the time of accident. Hence, future prospect at 40% of the actual income of the deceased is required to be taken, thus, the amount comes to Rs.28,800/- (40% of Rs.72,000/-). Further, there being five claimants, the deduction of 1/4th towards personal expenses of the deceased from his annual income would be just and proper. Accordingly, by deducting

1/4th from the annual income of the deceased, the claimant's dependency is assessed at Rs.75,600/- per annum (1,00,800 – 25,200).

12. Looking to the age of the deceased and five claimants/appellants, at the time of accident, this Court of the opinion that the Tribunal has rightly applied the multiplier of 16 in this case. Therefore, the compensation is assessed to Rs.75,600/- x 16 = Rs12,09,600/-. That apart, the Tribunal has awarded Rs.10,000/-, Rs.20,000/-, Rs.2,000/- and Rs. 2,500/- under the heads loss of love and affection, loss of consortium, funeral expenses & loss of estate respectively, which in the facts and circumstances of the present case and in view of the judgment of Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd. v. Pranay Sethi²**, is inadequate. The Supreme Court in the matter of **National Insurance (Supra)** dealt with the various heads under which compensation is to be awarded in a death case. Thus, keeping in view all these things, above discussion and in view of decisions of Hon'ble Supreme Court in the matter of **Santosh** and **National Insurance (supra)**, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimants/appellants are entitled for compensation in the following manner:-

2 (2017) 16 SCC 680

Head	Compensation awarded
Income	Rs.6,000/-
Future Prospect	Rs.2,400/- (i.e. 40% of the income)
Deduction towards living and personal expenses	Rs.2100/- (i.e. 1/4th of Rs.6,000/- + Rs.2,400/-)
Total Income	Rs.6,300/- (Rs.8,400 - Rs.2100)
Yearly Income	Rs.75,600/- (Rs.6,300/- x 12)
Multiplier applied	16
Loss of future income	Rs.12,09,600/- (Rs.6,300/- x 12 x 16)
Loss of Estate, Loss of Consortium and Funeral Expenses	Rs.70,000/-
Total compensation awarded	Rs.12,79,600/-

13. Thus, the total compensation including the amount awarded on conventional heads comes to Rs.12,79,600/- (12,09,600/- + 70,000/-) for which the claimants are entitled to receive as compensation for the death of deceased Satanand. Since the Tribunal has already awarded Rs.4,66,500/-, after deducting the same, the claimants/appellants are entitled for enhanced amount of Rs.8,13,100/-. This additional amount of compensation shall carry interest @ 6% p.a. from the date of filing of claim application till realization. The amount received by the claimants, if any, shall be adjusted in the enhanced sum.

14. Appeal is thus allowed in part with the modification in the award impugned as indicated above.

**Sd/-
(Rajani Dubey)
Judge**