

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 668 of 2014

Reserved on : 08/10/2018

Pronouncement on : 24/10/2018

- Sri Ram General Insurance Company Limited, Commercial Building Davendra Nagar Chauk, Raipur, District Raipur (C.G.)

---- Appellant

Versus

1. Chandramani aged about 42 years S/o Shambunath, Caste-Sidar (goad)
2. Gauri Bai aged about 38 years W/o Chandramani

----Claimants

Both are Resident- Gram Kohiladevari, Thana- Saraipali, District Mahasamund (C.G.)

3. Abdul Khalil Khan S/o Abdul Rahim Khan, Aged about 52 years, resident Bajarpara Saraipali, Thana- Saraipali, District Mahasamund **(Driver of Trailer No. C.G. - 04-J B-3428)**
4. Abdul Samim Lakahani S/o Abdul Nasim Lakhnani aged about 35 years, Resident Ward No. 12 Orriapara Saraipali, District Mahasamund (C.G.) **(Owner of Trailer No. C.G. -04-J B-3428)**

---- Respondents

For Appellant : Shri Deepak Gupta, Advocate

For Respondents 1 & 2 : Shri A.P. Pandey, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

C.A.V. Judgment

1. Being aggrieved with the award dated 11.02.2014 passed by the Motor Accident Claims Tribunal, Mahasamund (C.G.) in Claim Case No. 80 of 2013, the Appellant/Insurance Company has filed this appeal challenging the quantum of compensation.
2. Facts of the case are that claimants/Respondents 1 and 2, unfortunate parents of deceased- Pitamber Sidar, aged about 16 years who died on 16.04.2013 due to Respondent No.3 driving the vehicle Trailer bearing registration No. CG – 04

JB - 3428 in a rash and negligent manner, filed a claim petition under Section 166 and Section 140 of the Motor Vehicles Act, 1988 before the Tribunal for compensation against the death of their son in the said motor accident.

3. The learned Tribunal, the impugned award, has awarded total compensation of Rs.5,13,000/- in favour of the Claimants/Respondents 1 and 2, parents of the deceased, with interest @ 6% per annum from the date of application till realization.

4. Learned counsel for the Appellant/Insurance Company submitted that the Tribunal has erred in assessing the income of the deceased Rs.36,000/- per annum and as such awarded compensation on the higher side. Further, the Tribunal has also erred in awarding compensation of Rs.2,25,000/- under conventional heads which is also on the higher side.

5. Learned counsel for the Claimants/Respondents 1 and 2 argued that at the time of accident, the deceased was 16-17 years of age and as a labour, he was earning Rs.120/- per day i.e. Rs.3,120/- for 26 days whereas the Tribunal has taken the annual income of the deceased at Rs.36,000/- He submits that in view of the decision of the Apex Court in **National Insurance Company Limited v. Pranay Sethi and Ors., (2017) 16 SCC 680**, considering the age of the deceased 50% ought to have been added in his annual income towards future prospect, but the Tribunal has not considered the same. He further submits that in the matter of **Kishan Gopal and Another v. Lala and Others, (2014) 1 SCC 244**, the Apex Court in case of death of 10 years old boy awarded compensation of Rs.4,50,000/- and further awarded Rs.50,000/- under conventional heads. Thus, if the compensation is calculated in view of the aforesaid decisions of the Apex Court, the amount awarded by the Tribunal cannot be said to be on the higher side.

6. Considering the facts and circumstances of the case, the age of the deceased, the nature of job of the deceased, fact that no amount has been awarded by the Tribunal towards future prospect, the multiplier of 16 applied on the basis of age of the parents whereas it ought to have been 18 and in the light of decisions of the Apex Court in the matters of *Sarla Verma and Pranay* (supra), this

Court is of the opinion that by any stretch imagination the amount awarded by the Tribunal can not be said to be exorbitant or excessive.

7. In the result, the appeal being without any substance is liable to be dismissed and is dismissed.

Sd/-
(Gautam Chourdiya)
Judge

vatti