

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1168 of 2014

1. Babita Singh And Ors. W/o Late Manoj Kumar Singh Aged About 35 Years R/o Village- Bhaidsa, P.S., P.O. And Tah. Janjgir, Distt. Janjgir-Champa C.G.,
2. Ku. Akansha D/o Late Manoj Kumar Singh Aged About 9 Years Minor, Thru- Mother Smt. Babita Singh, R/o Village- Bhaidsa, P.S., P.O. And Tah. Janjgir, Distt. Janjgir-Champa C.G.
3. Ku. Smita D/o Late Manoj Kumar Singh Aged About 7 Years Minor, Thru- Mother Smt. Babita Singh, R/o Village- Bhaidsa, P.S., P.O. And Tah. Janjgir, Distt. Janjgir-Champa C.G.,
4. Jaipal S/o Surajman Singh Aged About 65 Years R/o Village- Bhaidsa, P.S., P.O. And Tah. Janjgir, Distt. Janjgir-Champa C.G.,
5. Nirmala Singh W/o Jaipal Singh Aged About 60 Years R/o Village- Bhaidsa, P.S., P.O. And Tah. Janjgir, Distt. Janjgir-Champa C.G.,

---- Appellants

Versus

1. Ram Kumar And Ors. S/o Sampatram Kashyap Aged About 45 Years R/o Sandail, P.S. Uрга, Tah. And Distt. Korba C.G.
2. Sarvmangala Construction Company 106, Stadium Road, T.P. Nagar, Korba, Tah. And Distt. Korba C.G., District : Korba
3. United India Insu.Co.Ltd. Thru- Branch Manager, Branch Office- Charardharnagar Chowk, Raigarh, Tah. And Distt. Raigarh C.G., District : Raigarh,

---- Respondent

For Appellants	: Shri Ritesh Verma, Advocate
For Respondent No.3/Insurance Company	: Smt. Chitra Shrivastava, Advocate

Hon'ble Smt. Justice Rajani Dubey

Order On Board

07/12/2018

This appeal arises out of the award dated 12.09.2014 passed by the Third Additional Motor Accident Claims Tribunal (in short 'the tribunal')

Janjgir-Champa in claims Case No. 07/2014 awarding a compensation of Rs. 4,02,000/- with interest @ 9% per annum in favour of appellants/claimants for the death of Manoj Kumar Singh.

2. Facts of the case in brief are that on 25.06.2013, Manoj Kumar Singh was going from Korba to Bhainsda on his motorcycle, he was dashed by truck bearing No. CG-12S0342 which was being driven by respondent No.1 Ram Kumar herein in a rash and negligent manner as a result of which Manoj Kumar Singh died on the spot. A claim petition was filed by the appellant/claimants who happened to be wife, children and father, mother of the deceased claiming compensation of Rs. 52,55,000/- *interalia* pleading that the deceased died due to rash and negligent driving of the offending vehicle. At the relevant time. He was aged about 35 years, working as contractor of Prakash Industries and his monthly gross income was Rs. 25 to 30,000/-.

3. Pleadings of the claimants have however been denied by the respondents/Insurance Company.

4. After evaluating the evidence available on record, the Tribunal has awarded compensation of Rs. 4,02,000/- along with interest at the rate of 9% per annum in favour of the appellants/claimants taking the net income of the deceased as Rs. 3,000/- per month applying the multiplier of 16 and deducting 1/3rd towards his personal expenses. Hence, this appeal for enhancement.

5. Counsel for the appellants/claimants submits that the compensation awarded by the Tribunal is on the lower side and needs to be enhanced suitably. He further submits that the yearly income of the deceased was Rs. 3,00,000/- but the learned Tribunal has erred in discarding the applicants evidence. The awarded amount has been passed arbitrarily and that proper calculation of the income of the deceased and the future prospects.

6. Learned Tribunal ought to have added 50% of the actual salary towards future prospects deceased was young man aged 35 years, as such 1/5th annual salary of the deceased was Rs. 2,50,000/- and the same ought to have been capitalized and applying multiplier by 16, learned Tribunal ought to have awarded sum of Rs. 48,053/- additionally.

7. On the other hand it has been argued on behalf of the counsel for respondent NO.3/Insurance Company that in the facts and circumstances of the case, the compensation awarded by the Claims Tribunal is just and proper and requires no further enhancement.

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

9. In the Motor Accident Claims case what is important is that the compensation to be awarded by the courts or the Tribunals should be just and proper compensation in facts and circumstances of the case which should neither be meagre amount of compensation, nor a bonanza.

10. Now this court shall examine as to whether the compensation of Rs. 4,02,000/- awarded by the Tribunal is just and proper in the facts and circumstances of the case.

The appellants/claimants did not file any document which shows that at the relevant time, deceased was earning Rs. 25-30,000/- per month. So the Tribunal calculated compensation on the basis of Rs. 3,000/- as monthly salary. Since at the time of death, the deceased was aged about 35 years, after applying multiplier of 16 instead of 14, as has been done by the Tribunal, total loss of dependency comes to Rs. 4,02,000/-. There is required to be addition of 40% of his actual salary to the actual salary towards future prospects. As such, the claimants are entitled for compensation in the following manner :

Sl. No.	Head	Calculation
1.	Income of the deceased	Rs. 4,000/- per month i.e. Rs. 48,000/- per annum
2.	40% towards future prospects added to annual income	(40% of Rs. 48,000/- +Rs.19,200/-) Rs. 67,200/- per annum
3.	1/3rd deduction towards future prospects added to annual income	Rs. 67,200/- - Rs. 22,400/- Rs. 44,800/-
4.	Multiplier of 16 applied for assessing total loss of dependency	Rs. 44,800/- x16= Rs. 7,16,800/-
5.	Towards Conventional heads (loss of estate, loss of consortium, funeral expenses and loss of estate)	Rs. 50,000/-
	Total	Rs. 7,16,800/-

11. Since the Tribunal has already awarded Rs. 4,02,000/-, after deducting the same from the above amount, the Claimants are held entitled for additional compensation of Rs. 3,14,800/-.

12. In the result, the appeal is allowed in part and the award impugned is modified to the extent that the Claimants/appellants shall be entitled to a total amount of compensation of Rs. 3,14,800/- with a payment of interest on the enhanced amount of compensation @ 6% per annum from the date of filing of the claim petition till the date of actual payment. Amount received by the claimants, if any, shall be adjusted in the enhanced sum.

Sd/-

(Rajani Dubey)
Judge