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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 8 of 2014****Judgment Reserved on 24.10.2018****Judgment Delivered on 11.12. 2018**

1. Rambagas Nishad S/o Shri Samaylal Nishad Aged About 39 Years,
2. Fuleshiya Bai W/o Shri Rambagas Nishad Aged About 37 Years

Both R/o Aklordih, P.S. Bhilai-3, Tah. Damdha, Distt. Durg C.G.,
District : Durg, Chhattisgarh

----Appellants**Versus**

1. Lalaram Marar S/o Trilochan Marar Aged About 34 Years R/o New Kursipar Market, Bhilai, P.S. Kursipar, Tah. And Distt. Durg C.G.
2. Dinesh Kumar Agrawal S/o Ramchand Agrawal Aged About 34 Years R/o New Kursipar Market, Bhilai, P.S. Kursipar, Tah. And Distt. Durg C.G.
3. Divisional Manager Reliance General Insu.Co.Ltd., Shop No. 412, 413, 4th Floor, Ravi Bhawan, Jai Stambh Chowk, Tah. And Distt. Raipur C.G.

---- Respondents

For Appellants	Shri Vedant Bhelonde, Advocate on behalf of Shri P.R. Patankar, Advocate.
For Respondent No.3	Shri Sourabh Sharma, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**C A V Judgment**

1. This is claimants' appeal for enhancement of compensation awarded by the 3rd Motor Accidents Claims Tribunal, Durg, District Durg, C.G. in Claim Case No. 89/2012 vide award dated 24.08.2013.

2. As against the compensation of Rs.10,00,000/- claimed by the parents of deceased Sunny Nishad by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for his death in the motor accident dated 17.05.2012, the Tribunal has awarded a total sum of Rs.2,95,000/- as compensation along with interest at 7.5% per annum from the date of application till its actual payment.
3. The Tribunal, on a close scrutiny of the evidence led before it, held that on the date of accident i.e. 17.05.2012, when the deceased was going on his cycle, respondent No.1 Lalaram Marar by driving the vehicle Swaraj Mazda No. CG-07/CA/0141, owned by Non-applicant No.2 & insured with Non-applicant No.3 in rash and negligent manner dashed the deceased, as a result of which the deceased died on the spot, deceased –Sunny Nishad, aged about 16 years, earning Rs.3,000/- per month as a Labour died on account of injuries sustained by him in the said accident; respondent No.3/ Insurance Company Limited is liable for payment of compensation as mentioned above.
4. Learned counsel for the appellants submits that the deceased was the only son of the claimants, was earning Rs.4,000/- per month but learned Tribunal considered the income of the deceased as Rs.3,000/- which was lower side

as per the job of the deceased. Deceased was also contributing his services and earning from running hotel with his father. Deceased was the only son and thereafter nobody in his family to look after his parents, therefore, enhancement should be considered. Learned counsel for the appellants also submits that Central Government has also amended Second Schedule of Section 163 A Motor Vehicle Act, according to which compensation in death case shall be Rs. 5,00,000/-. He submits that in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244***, the Hon'ble Supreme Court has granted a compensation of Rs.5,00,000/- in a death case and therefore, the present case, the claimants are also entitled for the compensation to the tune of Rs.5,00,000/-.

5. On the other hand, learned counsel appearing for respondent No.3 would submit that the amount of compensation awarded by the Tribunal is just and proper compensation in the facts and circumstances of the case and needs no interference.
6. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.
7. Considering the facts and circumstances of the case, the age of the deceased i.e. 16 years, the nature of job of the deceased, his earning, the judgment of the Hon'ble

Supreme Court in the matter of Kishan Gopal (supra), where the Hon'ble Supreme Court in case of death of child aged about 10 years in a Motor Vehicular Accident occurred on 19.07.1992 awarded a lumpsum amount of Rs.5,00,000/- as compensation, this Court is of the opinion that the compensation of Rs.2,95,000/- awarded by the Tribunal deserves to be enhanced to Rs. 5,00,000/-.

8. In the result, the appeal is allowed in part and the impugned award is modified to the extent that the appellants/claimants shall be entitled for a lumpsum compensation of Rs. 5,00,000/- with interest at the rate of 7.5% per annum from the date of application till its realization. In other words, the compensation awarded by the Tribunal is enhanced to Rs.5,00,000/-. However, rest of the conditions of impugned award shall remain intact.

Sd/-
Gautam Chourdiya
Judge

Akhilesh