NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 235 of 2014

1. Smt. Munni W/o Late Permeshwar Ram Aged About 40 Years, Occupation House wife

2. Narendra Ram S/o Late Permeshwar Ram Aged About 16 Years

3. Salendra Ram S/o Late Permeshwar Ram Aged About 13 Years

4. Milendra Ram S/o Late Permeshwar Ram Aged About 9 Years

   Appellant Nos. 2, 3 & 4 are minor, through their natural Guardian Mother Smt. Munni,

   All are caste Uraoun R/o Deosarakala, Post- Rehada, P.S. Kushmi And Tah. Sankergarh, Distt. Balrampur-Ramanujganj C.G.

---Appellants

Versus

1. Jems Kujur S/o Late Premprakash Kujur Aged About 42 Years Occupation Driver & Owner R/o Village- Agirama, P.S. Jainagar, Tah. And Distt. Surajpur C.G.

2. Branch Manager, Reliance General Insu. Co. Ltd., Branch Office-Vidhan Sabha Road, Ravi Bhawan, Pandari, Raipur C.G.

---- Respondents

For Appellants	Shri A.N. Pandey, Advocate.
For Respondents	Shri R.R. Soni, Advocate & Shri Sourabh Sharma, Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order On Board

05/12/2018

1. By the instant appeal, the appellants/claimants are challenging the legality and validity of the award dated 05.12.2013 passed by the 3rd Additional Motor Accident Claims Tribunal,

Ambikapur, District Surguja C.G (in short “Claims Tribunal') in Claim Case No.172/2012, whereby the learned Claims Tribunal awarded total compensation of Rs.10,31,208/- along with interest @ 6 percent per annum from the date of application till its actual payment and fastened the liability on respondent No. 3 – Insurance Company for satisfying the award of compensation.

2. Brief facts of the case, are that on 21.05.2012 at about 12:45 pm, deceased - Permeshwar Ram, aged about 44 years, married, who was working as a Sikshakarmi Grade -3, was returning to his home by a motor cycle bearing registration No. CG15/CK/0391 and when he reached near Tendupatta Godown Kushmi Rajpur Road, at the same time the respondent No.1 driving the TATA Magic bearing registration No. CG15/AD/0137 rashly and negligently, dashed the vehicle of deceased. The deceased received severe injuries and during treatment he died. The claimants, who are wife and children of deceased -Permeshwar Ram**,** filed claim application before the Tribunal claiming compensation to the tune of Rs. 22,42,840/- from the respondents under various heads.

3. Respondent No.2 – Insurance Company has contested the case by filing its written statement and pleaded that the claim of the claimants is on higher side and also pleaded that vehicle was being driven in breach of terms and condition of insurance policy, as the driver was not holding valid and effective driving licence to drive the offending vehicle.

4. Counsel for the appellant submits that the Tribunal has erred by not granting any amount towards future prospect, whereas in view of decision of Hon'ble Supreme Court in **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680,** considering the age of the deceased and the nature of his job, 30% increase in the annual income should have been considered by the Tribunal towards future prospect. He further submits that the Tribunal has also committed illegality in applying multiplier of 14 whereas considering the age of the deceased it should have been 15. He also submits that the Tribunal has wrongly deducted 1/3 towards personal and living expenses of deceased whereas it should have been 1/4**.** Lastly, he submits that the Tribunal has awarded a meager amount under the conventional heads and the same may be suitably enhanced.

5. Per contra learned counsel appearing for the respondents supported the award and stated that the learned Claims Tribunal has passed the impugned award after considering all the facts and circumstances of this case and award passed by the Tribunal is just and proper.

6. I have heard the learned counsel for both the parties and perused the records.

7. So far as the income of the deceased is concerned, taking into consideration the salary slips produced by the claimants Ex.P-9 as also the deduction towards income, the Tribunal has taken the income of the deceased as Rs.8984/- per month.

The same appears to be just and proper. As per evidence of School Certificate, the deceased was aged about 44 years 3 month 30 days and therefore, the Tribunal was justified in applying the multiplier of 14. However, the Tribunal has fallen into error in deducting 1/3 towards personal and living expenses of the deceased whereas in view of judgment of Hon'ble Supreme Court in ***Smt. Sarla Verma and others*** v. ***Delhi Transport Corporation and another,*** **(2009) 6 SCC 121,** as there are 4 dependents, the deduction should have been 1/4. Therefore, keeping in view the law laid down in the matters of *Pranay Sethi (supra) & Sarla Verma (supra)*, the amount of compensation is recalculated as under:-

Head	Calculation
Income of the deceased	Rs.8984/-x12= Rs.1,07,808/- per annum.
30% towards future prospect	Rs.32,342/- Rs.1,07,808/- + 32,342 = Rs.1,40,150/-
¼ deduction towards personal and living expenses of the deceased	Rs.35,037/-
Annual loss of dependency	Rs.1,40,150 – Rs. 35,037 = Rs.1,05,113/-
Multiplier of 14 applied for assessing total loss of dependency	Rs.1,05,113 x 14 = Rs.14,71,582/-
Towards Conventional Heads	Rs.70,000/-
Total	Rs. 15,41,582/-

8. Thus, the claimants are held entitled for a total compensation of Rs.15,41,582/-. Since, the Tribunal has already awarded a sum of Rs.10,31,208/-, after deducting the same from the amount as calculated above, the claimants are held entitled for an additional compensation of Rs. 5,10,374/-. This additional amount shall carry interest at the rate of 6% per annum from the date of claim application till its realization.

9.In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated hereinabove. Rest of the conditions of the award shall remain intact.

10. No order as to costs.

Sd/-
Gautam Chourdiya
Judge

Akhilesh