

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1133 of 2018**

1. Smt Baniharin Bai W/o Late Mehattar Singh, Aged About 40 Years,
2. Gianik Ram S/o Late Mehattar Singh Aged About 17 Years
3. Harichandra S/o Late Mehattar Singh Aged About 14 Years

The applicants Nos. 2 & 3 Minors Are Represented By Their Mother And Next Friend Smt. Baniharin Bai,

All R/o Durga Chowk, Santoshi Nagar, Police Station- Tikapara, District- Raipur, Chhattisgarh.

---- Appellants**Versus**

1. Donesh Kumar Bhujia S/o Puri Singh Bhujia Aged About 24 Years R/o Village- Talesar Police Station Chhura, District- Gariyabandh, Chhattisgarh.....(Driver Of The Offending Vehicle Bearing No. C.G. 04 J.F.- 4816)
2. Tulsi Ram Bhujia S/o Puri Singh Bhujia Aged About 45 Years R/o Village- Talesar, Police Station Chhura, District- Gariyabandh, Chhattisgarh.....(Owner Of The Offending Vehicle Bearing No. C.G. 04 J.F. - 4816)
3. ICICI Lombard General Insurance Company Ltd. Through- Branch Manager, Near Railway Crossing, Devendra Nagar, Raipur, Tehsil And District- Raipur, Chhattisgarh. (Insurer Of The Offending Vehicle Bearing No. C.G. 04 J.F.- 4816)

---- Respondents

For Appellants	Shri A.L. Singroul, Advocate on behalf of Shri Akhilesh Mishra, Advocate.
For Respondent No.3	Shri Sourabh Sharma, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board**

14/11/2018

1. This appeal by the claimants' seeking enhancement of the

compensation awarded by the 3rd Motor Accident Claims Tribunal, Raipur, District Raipur, C.G. in Claim Case No. 325/2014 vide award dated 18th May, 2018, granting compensation of Rs.2,49,500/- with interest at the rate of 6% from the date of filing claim petition till its realization.

2. The Tribunal, on a close scrutiny of the evidence led by the parties, held that on 10.06.2013 at about 4:30 pm, deceased Mehattar Singh aged about 50 years, working as a Labour, died in the accident while use of vehicle motor cycle bearing registration no. CG04-JF-4816. The deceased was travelling in the motorcycle as a pillion rider which hit the buffalo due to rash and negligent driving on the part of the driver of the motorcycle, as a result of which the deceased succumbed to the injuries sustained in the accident during treatment.
3. On claimants filing application under Section 163 A of the Act for compensation, the Tribunal awarded compensation as mentioned above, by fastening the liability on the non-applicants Driver, Owner and Insurance Company jointly and severely.
4. Learned counsel for the appellants submits that as per amendment in the 2nd Schedule of Section 163 A of the Act, in a death case Rs. 5,00,000/- is to be awarded. However, the learned Tribunal has granted only Rs.2,49,500/-. Therefore, the amount may be enhanced suitably.
5. Learned counsel for the respondent No.3/Insurance Company submits that the amendment made in the Second Schedule of 163 A of the Act was made on 2nd May of 2018 and is applicable from the date of its publication in the Official Gazette and as such the Tribunal has not committed any illegality in granting

compensation as mentioned above.

6. Heard both the parties and perused the material available on record including the impugned award.
7. Considering the facts and circumstances of the case, that after a long period since 1994 amendment has been made in the Act in respect of Second Schedule of 163 A of the Act, the appeal is continuation of the suit, and further keeping in view the fact that the Act is benevolent in nature, and the decision of Hon'ble Supreme Court in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244***, where a child aged 10 years died in a motor vehicle accident on 19th July, 1992, awarded a lumpsum amount of Rs.5 lacs, this Court is of the opinion that there is no legal impediment in enhancing the amount of compensation to the tune of Rs.5,00,000/- as per the amendment made in Second Schedule of Section 163 A of the Act.
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 6% 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