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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1156 of 2018

1. Radhika Korram W/o Jogendra Pal Korram, Aged 46 years
2. Jogendra Pal Korram S/o Subes Korram, Aged about 54 years

Both R/o House No. 18/3, Sudarshan Sahu Gali, Vill. Kangoli, Tahsil Jagdalpur, District Bastar, C.G.

---- Appellants/Applicants

Versus

1. Vishnu Pujari S/o Baidhnath Pujari, Aged 26, R/o Jawahar Nagar Ward, Near Jayaswal Shop, Jagdalpur, District Bastar (C.G.)
2. Abhijai Habil S/o Abhay Pramodh Habil, R/o Shanti Nagar Ward, Near Danteshwari College, Jagdalpur, District Bastar (C.G.)
3. Branch Manager, S.B.I. General Insurance Company Ltd, Pujari Chamber 4th Floor, Pachpedi Naka, Near Pujari Garden, Dhamtari Road, Raipur, District Raipur (C.G.)

---- Respondents/Non-Applicants

For Appellants	:	Shri Vikash A. Shrivastava, Advocate
For Respondent No.3	:	Shri Rohitashva Singh, Advocate
For Respondents 1 & 2	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

05.10.2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimants, seeking enhancement of the compensation awarded by the Third Additional Motor Accident Claims Tribunal, Bastar vide award dated 25.04.2018 passed in Claim Case No. 02 of 2017.

2. The claimants/Appellants, unfortunate mother and father of deceased- Kamlesh Korram aged about 23 years, claimed compensation of Rs.66,02,000/- by filing a claim petition under Section 166 (1) and Section 140 (1) of the Motor Vehicles Act, 1988 (Amended Act 1994) for death of their son in the motor accident.

3. The facts of the case are that on 06.06.2015, the deceased and his friends went to Village Markatola from Jagdalpur to attend marriage ceremony of his friend Devendra by Scorpio bearing registration No. CG 04 HC 3269. After attending marriage when they were returning to Jagdalpur, Respondent No.1, driver of Scorpio, driving the said vehicle in a rash and negligent manner dashed the vehicle on a tree in front of Joga Dhabha and lost the control on the vehicle and the vehicle overturned. As a result thereof, the deceased died on the spot itself. The deceased sustained injuries and succumbed to those injuries.

4. The learned Tribunal, in the impugned award, has considered the notional income of Rs 3,000/- per month and has awarded a compensation of Rs.4,83,600/- in favour of the Appellants-Claimaints, parents of the deceased, with interest @ 6% per annum from the date of application till realization. The Tribunal has also directed that the Respondents/non-applicants are jointly and severally liable for payment of compensation to the Claimants.

5. Contention of the learned counsel for the Appellant/Claimant is that the notional income of the deceased has been considered by the Tribunal at Rs.3,000/- per month. He contended that the deceased was a ITI student and also doing job of electrician and therefore his monthly income ought to have been considered as per minimum wages prevalent at that time i.e. Rs.5,000/-.

6. Learned counsel for the Respondent No.3/Insurance Company however opposes the appeal and submits that no specific evidence was adduced that on the date of accident, the deceased was having income, no income certificate was produced and the Tribunal has considered the notional income of deceased at Rs.3,000/- per month. He submits that the learned Tribunal has rightly assessed the income of the deceased, therefore, it is just and reasonable, which does not call for any interference in the instant claim petition.

7. I have heard the learned counsel appearing for the parties and perused the impugned order including the records of the Claims Tribunal.

8. Considering the age i.e. 23 years, education and job of the deceased- Kamlesh Korram and evidence adduced by Appellant No.1 /Claimant shows that the deceased was doing job of electrician, the minimum wages of the skilled and unskilled labour is Rs.5,000/- per month at the relevant time whereas the income considered by the learned Tribunal is Rs.3,000/- per month which appears to be on lower side and as such, in view of the decision of the Apex Court in **National Insurance Company Limited vs. Pranay Setthi, (2017) 16 SCC 680**, the claimants are entitled for compensation in the following manner :

Sl.No.	Head	Calculation
1	Income of the deceased	Rs.5,000/- per month i.e. Rs.60,000/- per annum
2	40% towards future prospects added to annual income	(Rs.60,000/- + Rs.24,000/-) Rs.84,000/- per annum
3	50% deduction towards personal and living expenses of Deceased as he was unmarried	(Rs.84,000/- – Rs.42,000/-) Rs.42,000/-
4	Multiplier of 18 applied	Rs.42,000/- x 18 = Rs.7,56,000/-
5	Towards loss of estate and for funeral expenses	(Rs.15,000/- + Rs.15,000/-) Rs.30,000/-
	Total	Rs.7,86,000/-

Since the Tribunal has already awarded Rs.4,83,600/-, after deducting the same from the above amount, the Claimant is held entitled for additional compensation of Rs.3,02,400/-.

9. Resultantly, the appeal is allowed in part and the impugned award is modified to the extent that the Claimants/Appellants shall be entitled to a total

enhanced amount of compensation of Rs.3,02,400/- with further direction of 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. However rest of the conditions of the impugned award shall remain intact.

10. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

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