

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 126 of 2013

1. Bhanu Ram Vishwakarma S/o Ramji Aged About 44 Years R/o Bheja (Maidani), Balod, P.S. Gurur, Distt. Durg C.G.
2. Smt. Shivbati W/o Bhanu Ram Vishwkarma Aged About 40 Years R/o Bheja (Maidani), Balod, P.S. Gurur, Distt. Durg C.G.
3. Dinesh Kumar S/o Ramji Aged About 18 Years R/o Bheja (Maidani), Balod, P.S. Gurur, Distt. Durg C.G.

---- Appellants

Versus

1. Mangkuri Barman S/o Nakunj Barman R/o Salarighat, Distt. Ambas Agartala Assam,
2. Gurumukh Singh S/o Mohan Singh R/o Beltola, Distt. Guahati Assam.
3. The New India Insurance. Company. Ltd., Mandal Prabandhak, Mandal Karyalaya Power House Bhilai, Distt. Durg C.G.

---- Respondents

For Appellants	:	Shri Shikhar Bakhtiyar on behalf of Shri B. P. Singh, Advocate.
For respondents	:	Shri Qamrul Aziz, Advocate.

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

05.07.2018

1. By the instant appeal, the appellants/claimants are challenging the legality and validity of the impugned award dated 03.11.2012 passed by the Additional Motor Accident Claims Tribunal, Balod, District – Durg, C.G (in short “Claims Tribunal”) in Claim Case No.40/2011, whereby the learned Claims Tribunal awarded total compensation of Rs. 9,33, 520 /- and fastened the liability on respondent No. 3 – Insurance Company for satisfying of the award of compensation.
2. Brief facts of the case, are that on 14.11.2009 deceased -Vyas Narain who was working as Constable in Central Reserve Police Force and posted in 155 Bn. CRPF, Dokajan, District – Karbi, Assam, bearing force No.07150181, met with an accident while returning from Guwahati to C.R.P.F., Camp, Dokajan. Accident took place in the territory of PS-Daregoan, Assam, when the driver of vehicle bearing No.NL.02/D/9/9/1/3/3/ drove the said vehicle rashly and negligently dashed the vehicle No. HR. No./6/8/3/5/9/6/ on which the deceased was traveling. The deceased suffered grievous injury over his head and spinal bone due to which, he was admitted in the E.M.C., hospital, Guwahati, Assam, and on 27.11.2009 during the course of treatment he succumbed to injuries. The claimants, who are parents and brother of deceased -Vyas Narain, have filed claim application before the Tribunal claiming compensation to the tune of Rs. 30,15,000/- from the respondents under various heads.
3. Respondent No.3 – Insurance Company has admitted that the vehicle bearing No. NL.02/D/9/9/1/3/3/ was insured with the company on the date of accident. It has been pleaded by the respondent No.3 that the accident took place when the deceased alongwith his co-employees

were traveling in vehicle bearing No. H.R. /6/8/3/5/9/6/ which was being driven in a rash and negligent manner by its driver as a result of which the accident occurred. A plea of contributory negligence on the part of the driver of other vehicle was also taken.

4. Learned Claims Tribunal after considering the pleadings, evidence and other material available on record, awarded Rs. 9, 33, 520 /- as total compensation to the claimants.
5. It is this award which is challenged by the family members/appellants.
6. Learned counsel appearing for the claimants submits that the learned Claims Tribunal erred in not awarding any amount towards the loss of future prospects on the ground that the deceased on the date of accident was a Permanent Government Employee and working as Constable in CRPF. He further submitted that the Claims Tribunal have also erred in applying multiplier of 10 considering the age of parents of the deceased and not applying the multiplier on the basis of age of the deceased. Learned counsel appearing for the appellants vehemently argued that the multiplier applied by the learned Claims Tribunal is contrary to law laid down by Supreme Court and submitted that the multiplier is to be used considering the age of the deceased and not, by considering the age of the claimants/ appellants as held by the learned Claims Tribunal. He places his reliance on the latest decision of Hon'ble Supreme Court passed in **Civil Appeal No.7176/2015 between Sube Singh and Anr. Versus Syam Singh (Dead) and Ors** reported in **(2018) 3 SCC 18**.
7. Per contra learned counsel appearing for the Insurance Company supported the award and have stated that learned Claims Tribunal have passed the impugned award after considering all the facts and circumstances of this case and award passed by the Tribunal is just and

proper.

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

9. Undisputably, deceased - Vyas Narayan, was in the employment of the CRPF and on the date of accident he was aged about 28 years.

10. Income of the deceased has been provided by Ex. P (12) i.e., salary slip to be Rs. 15,142 /- per month. The learned Claims Tribunal have rightly deducted 50 % towards personal expenses as the deceased was unmarried but erroneously applied multiplier of 10 while considering the age of parents for calculating the loss of income. The Hon'ble Supreme Court in its judgment of **Sube Singh** (supra) considering the dispute with regard to consideration of age of deceased or parents held as under:-

“ On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e., 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the matter of **Ashvinbhai Jayantilal Modi Versus Ramkaran Ramchandra Sharma** reported in **2015 (2) SCC 180**, it is held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more res integra. In **Munna Lal Jain Versus Vipin Kumar Sharma** reported in **2015 (6) SCC 180** decided by a three-Judges Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependents.”

11. In the light of the aforementioned law the age of the deceased is to be taken for using the multiplier as provided in table as formulated in **Sarla Verma & Ors Versus Delhi Transport Corporation** reported in **2009 (6)**

SCC 121. As the age of deceased on the date of accident was 28 years the correct multiplier to be applied as 17 in place of 10 as applied by Tribunal.

12. Learned Claims Tribunal have also erred in not considering the amount towards the future prospects of the deceased for which the claimants are also entitled in view of the decision rendered by Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**.

13. For the reasons stated above the impugned award is modified by re-calculating the compensation as under.

14. The proved salary of the deceased was Rs. 15, 142 /- per month which is also held by the learned Claims Tribunal and by adding 50 % of the proved salary towards the future prospects. The monthly income of the deceased comes to Rs. 22,713 /- and yearly salary comes to Rs. 2, 72, 556 /-. As the deceased was unmarried on the date of accident and, therefore, the deduction towards his personal expenses is taken as 50 %. After deducting 50% towards the personal expenses of the deceased, the yearly loss of income suffered by the appellants/ claimants comes to Rs. 1, 36, 278 /-. By applying the multiplier of 17 to it, the total loss of income suffered by the appellants/ claimants comes to Rs. 23,16,726/-. As the deceased was unmarried, therefore, claimants will be entitled for an additional sum towards conventional head on account of loss of estate and funeral expenses only to the tune of Rs. 40,000/-.

15. In view of the above the appellants/claimants will now, be entitled for Rs. 23,56,726 /- as total compensation instead of Rs. 9,33,520/- as held by the learned Claims Tribunal. The amount of Rs. 23, 56, 726 /- will

carry interest at the rate of 6% from the date of filing of application till its realisation. Other conditions imposed by the learned Claims Tribunal with regard to the disbursement of the amount of compensation will remain intact.

16. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated hereinabove.

17. No order as to costs.

Sd /-
(Parth Prateem Sahu)
Judge

Jamal

