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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 81 of 2015**

1. Smt. Devkumari And Ors. W/o Narsingh Yadav Aged About 30 Years R/o Village- Parsuli, Post- Kharenga, Thana- Arjuni, Distt. Dhamtari C.G., Chhattisgarh
2. Minor Thaneshwar Yadav S/o Late Narsingh Yadav Aged About 9 Years Thru- Mother Smt. Devkumari Bai Yadav, R/o Village- Parsuli, Post- Kharenga, Thana- Arjuni, Distt. Dhamtari C.G., District : Dhamtari, Chhattisgarh
3. Smt. Sukhma Bai W/o Late Vikram Singh Yadav Aged About 55 Years R/o Village- Parsuli, Post- Kharenga, Thana- Arjuni, Distt. Dhamtari C.G., District : Dhamtari, Chhattisgarh

---- Petitioners

Versus

1. Pradeep Jain And Anr. S/o Laxmi Lal Jain Aged About 36 Years R/o Near Rambag Market, Dhamtari, Thana And Tah. Dhamtari, Distt. Dhamtari C.G., Chhattisgarh
2. Divisional Manager The Oriental Insu.Co.Ltd., M.B. Trade House, Thana And Tah. Dhamtari, Balak Chowk Dhamtari, Distt. Dhamtari C.G., District : Dhamtari, Chhattisgarh

---- Respondent

For Appellant	: Shri Sunil Sahu, Advocate
For Respondent No. 2	: Shri H. S. Patel, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

29.11.2018

This is claimants' appeal seeking enhancement of compensation awarded by Additional Motor Accident Claims Tribunal, Dhamtari (for short 'the Tribunal') in claim case No. 27/2014 vide award dated 01.01.2015.

2. Facts of the case, as per claim petition are that on 14.02.2014

deceased- Narsingh Yadav was driving slowly his motorcycle bearing registration No. CG05R/0605 from village Donar, respondent No. 1 coming from opposite side with the offending vehicle Maruti Van bearing registration no. CG-04H/7074, rashly and negligently dashed the deceased, as a result of which he sustained grievous injuries and died in hospital during treatment.

3. As against compensation of Rs. 26,00,000/- claimed by unfortunate wife, son & mother of deceased- Narshingh Yadav, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for his death in the motor accident on 14.02.2014, the Tribunal awarded a total sum of Rs. 3,61,000/- as compensation along with interest @ 6 % per annum from the date of filing of claim petition till its actual payment. The Learned Tribunal fastened Liability upon respondent Nos. 1 & 2 jointly and severally.

4. Learned Tribunal, on a close scrutiny of the entire evidence led before it held that the accident has occurred due to rash and negligent driving of offending vehicle Maruti Van bearing registration no. CG-04H/7074, by its driver respondent No.1; assessed and awarded aforesaid amount of compensation to the appellants/claimants.

5. Learned counsel appearing for the claimants would submit the Tribunal has fallen in error in assessing the income of deceased as Rs. 3,000/- only, which is on lowerside. The accident happened in the year of 2014 and that time unskilled labour minimum wages should be considered as Rs. 4,500/- per month. He also submits that the Tribunal has not awarded any amount towards future prospect. He would further

submit that amount awarded under the head of funeral expense and loss of estate is also on the lower side, which deserve to be suitably enhanced.

6. Learned counsel for the respondent opposes the arguments made by learned counsel for the appellants/claimants and submits that there is no need to interfere with the award passed by the Claims Tribunal.

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

8. In the matter of **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. In civil appeal No. 9581 of 2018 arising out of SLP[Civil] No. 3192 of 2018** the Hon'ble Supreme Court has granted amount for loss of filial to the parents of the deceased, apart from awarding towards other conventional heads. A bare perusal of the evidence adduced in the case reveals that as per the claimants the deceased was working as private tuition teacher and doing agriculture work, the Tribunal has fallen in error in considering the income of the deceased as Rs.3,000/- per month whereas the Tribunal ought to have considered as Rs.4,500/- per month considering the minimum wages at the relevant time. In view of the judgment of the Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi reported in (2017) 16 SCC 680 & Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr. reported in 2009 (6) SCC121**, I consider it appropriate to award 25% towards future prospect in the yearly income of the deceased.

9. On the basis of above aforesaid judgments, I propose to re-compute the amount of compensation as under :-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.4,500x12=Rs.54,000/- per annum
02.	25% of above to be added towards future prospects	Rs = 54,000+13,500/-= Rs.67,500/-
03.	After 1/3th deduction towards personal and living expenses of the deceased	Rs. 67,500-22,500/-.= Rs. 45,000
04.	Multiplier of 14 to be applied	Rs.6,30,000/-
05.	Towards other head(loss of consortium, funeral expenses & parental & filial loss)	Rs.70,000+ 10,000/- = Rs. 80,000/-
05	Total compensation towards loss of dependency	Rs. 7,10,000/-

10. In view of foregoing, the appeal filed by the claimants is partly allowed. The compensation of Rs.3,61,000/- awarded by the Tribunal is enhanced to Rs.3,49,000/-. The above enhanced amount of compensation of Rs.3,49,000 /- shall carry interest @ 6% per annum from the date of application till its actual payment. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

11. The respondents No. 1 & 2 jointly and severally are granted two months' time to deposit enhanced amount of compensation of

Rs.3,49,000 /- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita