

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1171 of 2015**

1. Shyam Bahadur Thapa S/o Dal Bahadur Thapa, aged about 42 years,
2. Smt. M. Kumari W/o Shyam Bahadur Thapa, aged about 40 years,

Both are R/o Ambuja Colony Rawan, Tahsil- Balodabazar, Police Station- Balodabazar, Civil & Revenue Distt.- Balodabazar- Bhatapara (C.G.).

---- Appellants**Versus**

1. Gaurendra Singh Sengar S/o Shankar Bahadur Singh Senger, aged about 29 years, R/o House No. 109 Deendayal Housing Board Colony, Balodabazar, Distt.- Balodabazar- Bhatapara (C.G.).

(Driver of the vehicle truck dus Chakka No. MP/17 H.H./1911)

2. Brijendra Singh Senger S/o Shankar Bahadur Singh Senger, aged about 29 years, R/o House No. 109 Deendayal Housing Board colony, Balodabazar, Distt.- Balodabazar- Bhatapara (C.G.)

(Owner of the vehicle truck Dus Chakka No. MP/17H.H./1911)

3. National Insurance Company Ltd., Branch Office, Satna Branch Office, Near Rajbandha Ground, Raipur, Distt.- Raipur (C.G.) R/o House No. 109 Deendayal Housing Board Colony, Balodabazar, Distt.- Balodabazar- Bhatapara (C.G.)

(Insurer of the vehicle truck Dus Chakka No. MP/17H.H./1911).

---- Respondents

For Appellant	: Shri Anil S. Rajput, Advocate
For Respondent No. 1 & 2	: None, though served
For Respondent No. 3	: Shri GVK Rao, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

05.10.2018

1. This is appellants/claimants' appeal seeking enhancement of

compensation awarded by 1st Additional Motor Accident Claims Tribunal, Baloda Bazar, District Baloda Bazar (for short 'the Tribunal') in claim case No. 64/2014 vide award dated 06.05.2015.

2. Facts of the case leading to filing of claim petition are that on the fateful day i.e. 13.03.2014 at about 5 pm Reenu Thapa (since deceased) was going with her father in the motorcycle CD-Don bearing registration No. CG 04 CN/0120, near HDFC bank, Baloda Bazar, a truck bearing registration No. MP 17 H.H/1911 driven by respondent No. 1- Gaurendra Singh Sengar rashly and negligently, dashed the motorcycle, as a result of which Reenu Thapa sustained multiple injuries and thereafter she was taken to Govt. Hospital, Baloda Bazar where she was declared dead. As per marksheet of the deceased (Ex. A-15), she was aged about 23 years at the time of accident.

3. As against compensation of Rs. 32,90,000/- claimed by unfortunate parents of deceased – Reenu Thapa by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for her death in the motor accident on 13.03.2014, the Tribunal awarded a total sum of Rs. 04,62,000/- as compensation along with interest @ 7% per annum from the date of application till its actual payment.

4. The Tribunal, on a close scrutiny of the evidence led, held : the accident occurred due to rash and negligent driving of Truck bearing registration No. MP 17 H.H./1911 by its driver- Gaurendra Singh sengar i.e. respondent No.1; Reenu Thata died on account of the injuries sustained by her in the said accident. The Tribunal, after assessing the income of deceased as Rs. 48,000/- per annum, deducted 50% of it towards her personal expenses and applied multiplier of 18 and awarded

Rs. 24,000 x 18 = 4,32,000/- on account of loss of dependency. The Tribunal has further awarded Rs. 5,000/- towards loss of estate, Rs. 5,000/- towards funeral expenses and Rs. 20,000/- (Rs. 10,000/- each of the claimants) towards love and affection and thus has awarded a total sum of Rs. 4,62,000 /- along with interest @ 7 percent per annum from the date of application till its actual payment to the appellants/claimants. Learned Tribunal, after considering the material available on records fastened the liability to pay compensation upon the respondent No. 3 /Insurance Compensation as it could not establish the violation of policy conditions.

5. Learned counsel for the appellants/claimants submits that monthly income of the deceased assessed by the Tribunal as Rs. 4,000/- is on the lower side, which should be enhanced by Rs. 5,000/- per month. He further submits that the Tribunal has also not given any amount towards the future prospect as in light of judgment rendered by the Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, 40% future prospect should be added in the yearly income of the deceased; and the amount assessed and awarded by the Tribunal towards loss of estate, funeral expenses and loss of love and affection is also on the lower side, which deserve to be suitably enhanced.

6. Learned counsel for the respondent No. 3/Insurance Company, while opposing the contention made by learned counsel for the appellants/claimants, would submit that amount of compensation awarded by the Tribunal is just and proper compensation, which does not call for any interference in the instant appeal.

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

8. There is no dispute about the age of the deceased as 23 years at the time of incident as per evidence available on record. The father of deceased (AW-1) has stated in his evidence that his daughter/deceased-Reenu Thapa was the student of final year and earning Rs. 20,000/- per month by giving tuition to the students. This statement that deceased was a tuition teacher is also supported by another appellant witness No.2- Ramesh Kuamar Kerashi.

9. So far as income of the deceased is concerned, the deceased was at the time of incident 23 years of age and considering her job as tuition teacher and she was studying in B.Sc. final year, her income would be considered and assessed as. Rs. 5,000/- per month i.e. Rs.60,000 per annum. However, towards future prospects in view of decision rendered by Supreme Court in the matter of **Pranay Sethi (Supra)**, I propose to re-compute the amount of compensation as under :-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs. 5,000x12= 60,000- per annum
02.	40% of above to be added towards future prospects	Rs. 60,000+24,000= 84,000/-
03.	1/2th deduction towards personal and living expenses of the deceased	Rs 42,000/-
04.	Multiplier of 18 to be applied	Rs 42,000x18= 7,56,000./-
05	Towards loss of estate, for funeral expenses, love & affection etc.	Rs.15,000 + 15,000+10,000+ 10,000= 50,000/-

	Total Compensation	Rs. 8,06,000/-
--	--------------------	----------------

10. Thus, the claimants would become entitle for Rs.8,06,000/- as compensation in place of Rs. 4,62,000/- as awarded by the Tribunal.

11. In view of foregoing, the appeal is allowed in part. The compensation of Rs. 4,62,000/- awarded by the Tribunal is enhanced to Rs.8,06,000/-. The above enhanced amount of compensation of Rs.3,44,000/- shall carry interest @ 7 percent 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.

12. The respondent No. 3/National Insurance Company is granted three months' time to deposit enhanced amount of compensation of Rs. 3,44,000/-/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge