

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1444 of 2018**

1. Kumar Yadav aged about 45 years, W/o Late Ram Vilas Yadav.
2. Deewan Yadav aged about 22 years S/o Late Ram Vilas Yadav.
3. Pawan Yadav aged about 24 years, S/o Late Ram Vilas Yadav.

All R/o- Yadav Nager Bazar Chowk- Tifara Thana- Sirgitty Tahsil and District- Bilaspur (Chhattisgarh).

---- Appellants

Versus

1. Sanny Gupta aged about 27 years S/o Vijay Gupta, R/o- Thakur Para Tifara Thana- Sirgitty Tahsil and District- Bilaspur (Chhattisgarh).

(Driver of the offending vehicle Beganar Car C.G. No. 10/F./2679)

2. Vijay Gupta aged about 50 years S/o Ram Prasad Gupta, R/o Thakur Yadavpara, Tifara Thana- Sirigitti (Chhattisgarh). (Owner of the offending vehicle Veganar Car C.G. No. 10/F./2679).
3. The Oriental Insurance Company Ltd., Through Branch Manger, Branch Office, Rama tred Center, In front of Rajeev Plaza Old Bus Stand bilaspur Tahsil and District Bilaspur (Chhattisgarh). (Insurer of the offending vehicle Beganar Car C.G. No. 10/F./2679).

---- Respondents

For Appellant	: Shri A. L. Singrol, Advocate.
For Respondent	: Shri Abhishek Vinod Deshmukh, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

24.10.2018

1 This claimants' appeal seeking enhancement of compensation awarded by the 9th Additional Motor Accident Claims Tribunal, Bilaspur (for short 'the Tribunal') in claims case No. 402/2016 passed on 19.04.2018.

2. Facts of the case leading to filing of the claim petition is that on 20.04.2016, respondent No.1 while driving offending vehicle Wegnor Car bearing registration No.CG-10-F 2679 dashed the Ram Vilas Yadav, who was pedestrian and going to Tifra Industrial Area for selling the Milk, from back side, as a result of which he sustained multiple injuries and while he was shifting the CIMS Hospital, he died on the way.

3. As against the compensation of Rs. 22,85,000/- claimed by the unfortunate wife & children of deceased-Ram Vilas Yadav, aged about 49 years by filing claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'MV Act') for the death of deceased in the motor accident on 20.04.2016, the Tribunal awarded a total sum of Rs. 8,63,000/- as compensation along with interest @ 8 percent per annum from the date of application till its actual payment to the appellants/claimants.

4. The Tribunal, on a close scrutiny of evidence, material placed and submissions made by the parties, held : the accident had occurred due to involvement of offending vehicle Wegnar Car bearing registration No. CG 10/F./2679 being driven by respondent No.1 Sanny Gupta (driver of the offending vehicle) dashed deceased -Ramvilas Yadav who was pedestrian and going to Tifra Industrial Area for selling the Milk, from back side, as a result of which he sustained multiple injuries and succumbed to the injuries.

Learned Tribunal, after considering the material available on record fastened the liability to pay compensation upon the respondent No. 1 to 3/Insurance Company jointly & severally, as it could not establish the violation of policy condition and awarded aforesaid sum as compensation to the appellants/claimants.

5. Learned counsel for the appellants/claimants would submit that amount of Rs.8,63,000/- awarded by the Tribunal for the death of deceased is shockingly on lower side, which deserves to be suitably enhanced.

6. Per contra, counsel for the respondent No. 3/Insurance Company while supporting the impugned award would submit that amount of Rs.8,63,000/- awarded by the Tribunal to the claimants is just and proper in the facts & circumstances of the case, which does not call for any interference in the instant appeal.

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

8. The facts that accident had occurred due to rash and negligent driving of driver of offending vehicle i.e. Car and that the respondent No. 3/Insurance company is liable for payment of compensation as it could not establish violation of policy conditions are now not in dispute.

9. The deceased was a Milk Seller. The Tribunal, on the basis

of evidence led by appellant as considered the deceased to be a person belonging to BPL category and further finding that no evidence has been adduced in respect of income of the deceased, assessed the income of deceased at Rs. 6,100/- per month i.e. Rs. 73,200/- per annum is just and proper. The deceased was aged about 50 years, therefore, in view of the decision of Hon'ble Supreme Court Judgment **Sarla Verma (Smt.) & others Vs. Delhi Transport Corporation and another** reported in **2009 (6) SCC121** and in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** awarded 25% of it towards future prospect that would become Rs.91,500/-; further deducted 1/3rd of it towards his personal expenses and applied multiplier of 13 and awarded Rs. 7,93,000/- on account of loss of dependency. The Tribunal has further awarded Rs. 15,000/- on account of loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses and thus has awarded a total sum of Rs. 8,63,000, which in the considered opinion of this Court, is just & proper compensation to the claimants for the death to deceased in the facts & circumstances of the case and I do not find any illegality or perversity in the award impugned warranting interference by this Court in the instant miscellaneous appeal.

10. For the reasons mentioned hereinabove, I do not find any scope for enhancement of the compensation awarded by the

Tribunal.

11. The appeal filed by the appellants for enhancement of the compensation is therefore liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita