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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1505 of 2018**

1. Smt Mogra Bai Wd/o Late Kartikram Dhritlahre Aged About 47 Years R/o Village Charoda, Tahsil And Police Station Pallari, District (Revenue And Civil) Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Sahid @ Sahil Dhritlahre S/o Late Kartikram Dhritlahre Aged About 19 Years R/o Village Charoda, Tahsil And Police Station Pallari, District (Revenue And Civil) Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
3. Manisha Dhritlahre D/o Late Kartikram Dhritlahre Aged About 17 Years Minor Through The Mother (Natural Guardian) Appellant No. 01, Smt. Mogra Bai Wd/o Late Kartikram Dhritlahre, Aged About 47 Year, Caste Satnami, R/o Village Charoda, Tahsil And Police Station Pallari, District (Revenue And Civil) Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
4. Laxman Dhritlahre S/o Late Kartikram Dhritlahre Aged About 14 Years Minor Through The Mother (Natural Guardian) Appellant No. 01, Smt. Mogra Bai Wd/o Late Kartikram Dhritlahre, Aged About 47 Year, Caste Satnami, R/o Village Charoda, Tahsil And Police Station Pallari, District (Revenue And Civil) Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
5. Jyoti Dhritlahre D/o Late Kartikram Dhritlahre Aged About 12 Years Minor Through The Mother (Natural Guardian) Appellant No. 01, Smt. Mogra Bai Wd/o Late Kartikram Dhritlahre, Aged About 47 Year, Caste Satnami, R/o Village Charoda, Tahsil And Police Station Pallari, District (Revenue And Civil) Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

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1. Resham Kumar Sahu S/o Kashi Ram Sahu Aged About 26 Years R/o Village Rohansi Tahsil And Police Station- Pallari , District (Revenue And Civil) Balodabazar, Chhattisgarh (Driver Of Motor Cycle Hero H F Delux Vehicle No. C G 04/ L L/ 5270) (Owner And Driver Of Vehicle No. C G / 04/ L L 5270), District : Balodabazar-Bhathapara, Chhattisgarh
2. Branch Manager National Insurance Company Limited, Mobin Mahal Second Floor, Kachhari Chowk G R Road Raipur, District - Raipur, Chhattisgarh, Insurer Of The Vehicle Of Motor Cycle Hero H F Delux Vehicle No. C G 04/ L L/ 5270., District : Raipur, Chhattisgarh

---- Respondents

For Appellant : Shri Anand Keshewani, Advocate
 For Respondents : Shri G. V. K. Rao, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

27.11.2018

1. This is claimants' appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Balouda Bazar (for short 'the Tribunal') in claim case No. 126/2017 vide award dated 19.06.2018.

2. Facts of the case, as per claim petition, are that on 06.10.2017, deceased Kartikram Dhritlahre went for his house hold work when he was going from Rohansi to village Saloni, on lawan-Khartora Road, near Kanakot Khairi turning respondent No.1, who was rashly and negligently driving the motor cycle Hero H.F. Delux Vehicle No. C.G.04/L.L./5270 lost the control of his vehicle and dashed Kartikram Dhritlahare, as a result of which he sustained multiple injuries on his head, chest and left arm and died on the spot.

3. As against compensation of Rs. 21,00,000/- claimed by unfortunate widow and children of deceased- Kartikram Dhritlahre, 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 06.10.2017, the Tribunal awarded a total sum of Rs. 7,46,908/- as compensation along with interest @ 9 % per annum from the date of filing of claim petition till its actual payment.

4. Learned Tribunal, on a close scrutiny of the entire evidence led

before it held that the accident occurred due to rash and negligent driving of offending motorcyle Hero H.F. Delux Vehicle No. C.G.04/L.L./5270, by its driver respondent No.1; deceased died on account of the injuries sustained by him in the motor accident on 6.10.2017. Learned Tribunal awarded aforesaid amount of compensation to the appellants/claimants. There is no counter appeal filed by the Insurance Company to contest the matter.

5. Learned counsel appearing for the claimants would submit the Tribunal has fallen in error in assessing the income of deceased as Rs. 4,500/- only whereas it should be considered as Rs. 6,000/- per month as per minimum wages at the relevant time and thereby awarding the low amount of compensation, which deserve to be suitably enhanced. He further submits that 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 apart from awarding towards other conventional heads therefore, it is prayed for award of conventional heads with filial consortium.

6. On the other hand, learned counsel for respondent No. 3/Insurance Company, would submit that in the facts & circumstances of the case, the amount awarded by the Claims Tribunal is just & proper, which does not call for any interference in the instant second appeal.

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

8. A bare perusal of the evidence adduced in the case would reveal: before the accident, deceased was working as Carpenter and was earning Rs.8,000/- per day. In the year 2017, the Carpenter can easily earn Rs. 200/- per day, therefore, the Tribunal has fallen in error in considering the income of the deceased as Rs.4,500/- per month whereas the Tribunal ought to have considered as Rs.6,000/- per month considering the minimum wages at the relevant time. In view of the judgment of the Supreme Court in the matter of in **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, I consider it appropriate to award 25% towards future prospect in the yearly income of the deceased. In the matter of **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. (Supra)** the Hon'ble Supreme Court has granted amount for filial, apart from awarding towards other conventional heads, which, in the facts & circumstances of the case, is applicable to present case and in my considered opinion, Rs. 60, 000/- should be added as filial(parental heads).

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

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.6,000x12=Rs.72,000/- per annum
02.	25% of above to be added towards future prospects as added by the Tribunal	Rs = 72,000+18,000/-= Rs.90,000/-
03.	1/4th deduction towards personal	Rs. 90,000-22,500/-=

	and living expenses of the deceased	Rs.67,500/-
04.	Multiplier of 11 to be applied as applied by the Tribunal	Rs.7,42,500/-
05	Towards loss of consortium to respondent No. 1 wife as awarded by the Tribunal	Rs. 40,000/-
06.	Towards parental consortium	Rs.60,000/-
07.	Towards funeral expenses, loss of estate etc.	Rs.30,000/-
08.	Total compensation	Rs.8,72,500/-

10. Thus, the claimants would become entitled for Rs.8,72,500/- as compensation in place of Rs.7,46,908/- as awarded by the Tribunal.

11. In view of foregoing, the appeal is allowed in part. The compensation of Rs. 7,46,908/- awarded by the Tribunal is enhanced to Rs.8,72,500/-. The appellants are entitled for a further sum of Rs. 1,25,592/- over and above the amount of Rs. 7,46,908/- awarded by the Tribunal. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

12. The respondent No. 2/National Insurance Company Ltd. is directed to deposit enhanced amount of compensation of Rs. 1,25,592/- along with interest @ 9 % per annum before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

