

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1480 of 2018**

1. Ratan Das S/o Late Mohit Das aged about 33 years.
2. Smt. Laxmin Manikpuri W/o Ratan Das aged about 28 years.
3. Ku. Sanjana D/o Ratan Das aged about 08 years.
4. Sanju Das S/o Ratan Das aged about 06 years.

Appellant No. 3 to 4 is minor through his legal guardian Father Ratan Das.

All are R/o – Village Mahmand Thana Torwa Tahsil and Distt.- Bilaspur (C.G.).

---- Appellants

Versus

1. Mangalu Kaiwart S/o Ramdayal Kaiwart aged about 45 years. R/o Tarbahar Thana Tarbahar Tahsil and District- Bilaspur (C.G.).

Halmukam Village Sakar Farhada Thana Akaltara District- Janjgir -Champa (Chhattisgarh).

2. Deepnarayan Tiwari S/o Bhagwat Prasad aged about 50 years. R/o Shankar Nager Ward No. 37 In fron of Gudakhu Factory Bilaspur District- Bilaspur (Chhattisgarh).
3. Branch Manger, The Oriental Insurance Company Ltd., Branch Office Rama Tred Center Old Bus Stand Bilaspur in fron of Rajeev Plaza Thana Civil Line District- Bilaspur (Chhattisgarh).

---- Respondents

For Appellant	: Shri A.L. Singroul, Advocate
For Respondent No. 3	: Shri T.K. Tiwari, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

15.11.2018

1. This is claimants' appeal seeking enhancement of compensation awarded by 8th Motor Accident Claims Tribunal, Bilaspur (for short 'the Tribunal') in claim case No.19/2018 vide award dated 12.07.2018.
2. Facts of the case, as per claim petition, are that on 10.12.2017 the respondent No.1 – Mangalu Kaiwart while driving the offending vehicle Haiwa Truck bearing registration No. C.G.10—R-0856 dashed the cycle of deceased –Shekhar Manikpuri, as a result of which he sustained grievous injuries, thereafter he was shifted to the SIMS Hospital, Bilaspur, where during treatment he died.
3. As against compensation of Rs. 30,00,000/- claimed by unfortunate parents and siblings of deceased- Shekhar Manikpuri, aged about 11 years, 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 10.12.2017, the Tribunal awarded a total sum of Rs. 5,00,000/- as compensation along with simple interest @ 6 percent per annum from the date of filing of claim petition till its actual payment in favour of the appellants/claimants.
4. The Tribunal, on a close scrutiny of the evidence led by both the parties, held : the accident had occurred due to rash and negligent driving of Haiwa Truck bearing registration No. C.G.10—R-0856 by its driver Mangalu Kaiwart, respondent No. 1 herein ; Shekhar Manikpuri, aged about 11 years, died on account of injuries sustained by him in the said accident. Learned Tribunal, after considering the material available on record fastened the liability to pay compensation upon the respondent

No. 3 /Insurance Company as it could not establish the violation of policy conditions and awarded aforesaid sum as compensation to the appellants /claimants.

5. Learned counsel for the appellants/claimants would submit that the Tribunal has erred in assessing the income of the deceased as the deceased was helping his father to run Kirana Shop and was contributing to earn Rs. 15,000/- per month. He further submits Tribunal has fallen in error in not awarding any sum towards 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**, 50% future prospect should be added in the yearly income of the deceased. 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 head with filial consortium.

6. Learned counsel for the respondent No.3/Insurance Company opposes the arguments made by learned counsel for the appellants/claimants and submits that in the facts & circumstances of the case, amount of compensation awarded by the Claims Tribunal is just & proper, 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 order including the record of Claims Tribunal.

8. There is no dispute about the age of the deceased at the time of

accident and it is also considered by the Tribunal while assessing the income of the deceased; it is also not disputed that appellants No. 1 & 2 are the father & mother of the deceased whereas respondents No. 3 & 4 are the minor sister & brother of the deceased.

9. The Tribunal, after taking into consideration the notional income of the deceased at Rs. 30,000/- and after multiplying the same with the multiplier of 15 assessed the amount of compensation towards claimants dependency at Rs. 4,50,000/-. The Tribunal further awarded Rs. 10,000/- towards mental agony; Rs.10,000/- towards love & affection; Rs. 15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses and thus has awarded a total sum of Rs. 5,00,000/- along with interest @ 6 percent per annum from the date of application till its actual payment.

10. Admittedly the deceased was helping his father to run Kirana Shop and was aged about 11 years, therefore, in view of the decision of Supreme Court Judgment **National Insurance Co. Ltd. Vs. Pranay Sethi (Supra)**, 50% of the annual income should be added thereto towards future prospect. In the matter of **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors.(supra)** the Hon'ble Supreme Court has granted amount for loss of 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. 50,000/- should be added as filial head.

11. Thus keeping in view the decision rendered by the 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.	Notional income of the deceased	Rs.30,000/- per annum
02.	50% of above to be added towards future prospects	Rs.30,000+15,000= Rs.45,000/-
03.	Multiplier of 15 to be applied	Rs. 45,000 x 15 =6,75,000/-
04.	Towards mental agony, love & affection, loss of estate & funeral expenses as awarded by the Tribunal	Rs.10,000/- +10,000/- +15,000/- +Rs.15,000/- = Rs.50,000/-
05	Towards Filial consortium	Rs.50,000/-
06	Total compensation	Rs.7,75,000

11. In the result the appeal is allowed in part. Since, the Tribunal has already awarded a sum of Rs. 5,00,000/- after deducting the same from the amount as calculated above, the claimant is held for an additional compensation of Rs. 2,75,000/-. This additional amount shall carry interest at the rate of 6% per annum from the date of claim application till its realization. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

12. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge