

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1531 of 2018**

1. Ramelal Patel S/o Bhagwani Patel Aged About 52 Years R/o Village-Bhalukona, Police Station- Kasdol Tahsil- Balodabazar District- Revenue And Civil Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Draas Bai Patel W/o Ramelal Patel Aged About 48 Years R/o Village-Bhalukona, Police Station- Kasdol Tahsil- Balodabazar District- Revenue And Civil Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
3. Jeet Kumar Patel S/o Ramelal Patel Aged About 17 Years R/o Village-Bhalukona, Police Station- Kasdol Tahsil- Balodabazar District- Revenue And Civil Balodabazar- Bhatapara, Chhattisgarh.....(Applicants), District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioners**Versus**

1. Rajesh Tiwari S/o Lolaraknath @ Wakil Tiwari Aged About 32 Years R/o Village Post- Kumbhapur Police Station- Rampur, District- Revenue And Civil- Johanpur Uttar Pradesh.....(Driver Of Balkar Truck Vehicle No. C.G. 04 Z.D. 1760), District : Jaunpur, Uttar Pradesh
2. Smt. Reema Singhanian W/o Manoj Singhanian R/o Flat No. 201 Second Floor Dalfin Apartment, Devnadra Nagar Raipur, Chhattisgarh.....(Owner Of The Bulkar Truck Vehicle No. C.G. 04 Z.D. 1760), District : Raipur, Chhattisgarh
3. Branch Manager The New India Insurance Company Limited, Ambedkar Chowk Balodabazar, Chhattisgarh.....(Insurer Of The Vehicle), District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents

For Appellant : Shri Anand Keshewani, Advocate
 For Respondent No. 3 : Shri Pankaj Agrawal, 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, Baloda Bazar (for short 'the Tribunal') in claim case No. 111/2017 vide award dated 07.05.2018.

2. Facts of the case, as per claim petition, are that on 23.08.2017, deceased Ku. Ranjeeta aged about 18 years was going on bicycle from Bhalukona to village Lavan, near the college turning, respondent No.1, who was rashly and negligently driving the truck bearing registration No. CG04JD/1760 lost the control of his vehicle and dashed Ku. Ranjeeta, as a result of which she sustained multiple injuries on her head and died on the spot.

3. As against compensation of Rs. 26,00,000/- claimed by unfortunate parents & brother of deceased- Ku. Ranjeeta, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for her death in the motor accident on 23.08.2017, the Tribunal awarded a total sum of Rs. 7,50,400/- as compensation along with interest @ 9 % per annum from the date of filing of claim petition till its actual payment.

4. 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 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 head 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 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 tuition teacher and was earning Rs.9,000/- per month. In my considered opinion, 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 as per 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 SCC680**, I consider it appropriate to award 40% 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 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. 40,000/- should be added as filial head.

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.	40% of above to be added towards future prospects	Rs = 72,000+28,800/-= Rs.1,00,800/-
03.	50% deduction towards personal and living expenses of the deceased	Rs.1,00,800 –Rs.50,400/- = Rs.50,400/-
04.	Multiplier of 18 to be applied as applied by the Tribunal	Rs.9,07,200/-
05	Total compensation towards loss of dependency	Rs. 9,07,200/-
06.	Towards (loss of estate, funeral expenses etc)	Rs. 30,000/-
07.	Towards filial consortium	Rs.40,000/-
08	Total Compensation	Rs.9,77200/-

9. Thus, the claimants would become entitled for Rs.9,77200 /- as compensation in place of Rs.7,50,400/- as awarded by the Tribunal.

10. In view of foregoing, the appeal is allowed in part. The compensation of Rs.7,50,400/- awarded by the Tribunal is enhanced to

Rs. 9,77,200/-. The appellants are entitled for a further sum of Rs. 2,26,800/- over and above the amount of Rs. 7,50,400/- awarded by the Tribunal.

11. The respondent No. 3/New India Insurance Company Limited is granted two months' time to deposit enhanced amount of compensation of Rs. 2,26,800/- along with interest @ 9% before the concerned Tribunal. Rest of the conditions of the award shall remain intact. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita