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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1006 of 2012**

1. Tata AIG General Insurance Company Limited, Registered Office Neninsula, Corporate Park, Nicolas Tiramal Tower, 9 Fallor Gadpat Rao Kadam Road, Lower Parrel P.S. Lower Parrel, Mumbai- 400013.

---- Appellant**Versus**

1. Durga Prasad Yadav S/o Bhagirathi Yadav aged about 48 years.
2. Smt. Dugdi Bai W/o Durga Prasad Yadav aged about 45 years.
3. Madendra Yadav S/o Durga Prasad Yadav aged about 19 years.
4. Ku. Geeta Yadav D/o Durga Prasad Yadav, aged about 20 years.

Respondent No. 1 to 4 are presently R/o Civil line Charch Road, P.S. Civil Line, Durg, Tahsil and District- Durg C.G.-491001
 Permaament Address- Village Potiya, Post Boarai, P.S. bori, Tahsil- Dhamdha (wrongly mentioned Dhamdh), District- Durg C.G.- 491331.

5. Shiv Kumar Chakrdhari S/o B. R. Chakrdhari (Bahuram) aged -40 years, R/o Kuurbeda, P.S. Sarshwati Nagar, Tehsil and District- Raipur C.G.- 492002.
6. Vivek Singh Goutam S/o V. S. Goutam R/o in front of Pujari Road Tikrapara P.S. Tikrapara Tehsil and District- Raipur C.G.- 492009.

---- Respondents

For Appellant	:Shri Ghanshyam Patel, Advocate.
For Respondents/claimants	:Shri S. P. Sahu, Advocate.

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

01.05.2019

This appeal is by the Insurance Company against the award

dated 09.08.2012, passed by 5th Additional Motor Accident Claims Tribunal, Durg in Claim Case No. 76/2011 awarding total compensation of Rs. 4,18,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 19.12.2010, at about 9.45 pm deceased Himmat Kumar Yadav, aged about 27 years earning Rs. 15,000/- per month, as plumber, died in the motor vehicular accident caused due to rash and negligent driving of vehicle bearing No. CG 04-HB/0831 by non-applicant No.1- Shiv Kumar Chakradhari. The vehicle is owned by non-applicant No. 2 and insured with Non-applicant No. 3.

03. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellant is challenging on the quantum part of the award only. He submits that learned Tribunal has wrongly deducted 1/3rd towards personal & living expenses which is not permissible as at the time of accident, the deceased was bachelor. He also submits that the multiplier applied by the Tribunal is erroneous. Admittedly the age of claimants parents is more than the age of deceased and so the age of parents has to be taken into consideration for choosing multiplier.

05. Learned counsel for the respondents/claimants opposed the contention made by learned counsel for the appellant/Insurance Company. He also submits that in this case future prospect has not been considered by the Tribunal therefore, the deduction towards living & personal expenses is appropriate and need not be interfered.

06. Heard and perused the record of the Tribunal.

07. In this case before the Tribunal the parents & siblings of the deceased filed the application for grant of compensation against the death of the deceased and the Tribunal awarded Rs.4,18,000/- in

favour of the claimant/parents & siblings of the deceased. So far as the deduction towards living & personal expenses is concerned, as per ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121***, the deduction towards living & personal expenses should have been 1/2nd instead 1/3rd but in this case it is considerable here that no future prospect has been awarded by the Tribunal, in view of the Apex Court Judgment in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***. Therefore, in these facts & circumstances of the case it would be appropriate not to interfere with the award impugned and the awarded amount is just & proper. The second contention made by learned counsel for the appellant that the multiplier is wrongly applied but as per the judgment of Sarla Verma (Smt.) supra, the multiplier has rightly been applied by the Tribunal.

08. In view of the aforesaid legal analysis, the misc. appeal filed by the appellant/Insurance Company, being devoid of merit, is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Gautam Chourdiya)
Judge

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