

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 227 of 2015

1. Smt. Sunita Wadhwani W/o Shri Gopal Wadhwani Aged About 38 Years
2. Gopal Wadhwani Shri Dariyana Mal Wadhwani Aged About 41 Years

Both are by Caste Sindhi, R/o Mahalaxmi Colony Dhamtari, Thana And Tahsil- Dhamtari, Civil And Revenue Distt.- Dhamtari, C.G.

---- Appellants/claimants

Versus

1. Dhananjay Mahar S/o Jagatu Mahar Aged About 40 Years R/o Village Pendarwani, Chowki- Kavar, Thana- Gurur, Civil And Revenue Distt- Balod, C.G., (Driver of Vehicle No. CG 07 ZC 1831)
2. Krishna Kumar Sahu S/o Man Singh Sahu Aged About 48 Years R/o Village- Potiyadih, Thana- Arjuni, Civil And Revenue Distt.- Dhamtari, C.G. (Owner of Vehicle No. CG 07 ZC 1831)
3. Divisional Manager Oriental Insurance Company Limited, M.B. Complex, Balak Chowk Dhamtari, Distt.- Dhamtari, C.G. (Insurer of Vehicle No. CG 07 ZC 1831)

---- Respondents

For Appellants	:	Shri Sumit Shrivastava, Advocate.
For Respondent Nos. 1 & 2	:	None though served.
For Respondent No.3	:	Shri Raj Awasthi, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

06/03/2019

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award 14.1.2015 passed by Additional Motor Accident Claims Tribunal, Dhamtari (CG) in Claim Case No. 43/2014 awarding total compensation of Rs.2.45 lacs with interest @

6% per annum from the date of application till realization, fastening liability on the non-applicant No.3/insurance company jointly and severally along with non-applicants No. 1 & 2/driver & owner.

02. As per claim petition, on 1.10.2013 Deep Wadhwani, aged 15 years, along with his friend Kalash Jain was going to his house by Scooty/Activa bearing No. CG 04 KA 4403. However, on the way, non-applicant No.1 Dhananjay Mahar by driving truck bearing No. CG 07 ZC 1831 (offending vehicle) in a rash and negligent manner, dashed the said scooty. As a result of this accident, Deep Wadhwani suffered grievous injuries and succumbed to the same. At the time of accident, the offending vehicle was owned by non-applicant No.2 and insured with non-applicant No.3.

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

04. Learned counsel for the appellants/claimants submits that income of the deceased has wrongly been considered by the Tribunal as Rs.15,000/- per annum whereas the accident occurred on 1.10.2013 and therefore, as per minimum wages, his income should have been considered as Rs.36,000/- per annum. Further, the amount awarded under the other heads are also on the lower side and needs to be enhanced suitably.

05. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. The Hon'ble Supreme Court in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244***, wherein a child aged about 10 years died in motor vehicular accident occurred on 19.7.1992

and the claimants were young parents, considering its various earlier decisions awarded Rs.5 lacs towards total loss of dependency and other conventional heads.

08. Thus, in view of the aforesaid decision, looking to the age of the parents and that of the deceased i.e. about 14 years, this Court is of the opinion that the appellants/claimants are entitled for a total sum of Rs.5 lacs as compensation. Since the Tribunal has already awarded Rs.2.45 lacs, after deducting the same, the claimants are held entitled for additional compensation of Rs.2.55 lacs with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact. Ordered accordingly.

09. With the aforesaid modification in the award impugned, the appeal stands disposed of.

Sd/

(Gautam Chourdiya)

Judge