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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1118 of 2014

1. Smt. Parwati Yadav, Aged about 37 Years, W/o Late Dinesh Yadav, Occupation House Wife
2. Gopal Yadav, Aged About 18 Years, S/o Late Dinesh Yadav
3. Mohan Yadav, Aged About 16 Years, S/o Late Dinesh Yadav
4. Vijay Yadav, Aged About 13 Years, S/o Late Dinesh Yadav
5. Mahesh Yadav, Aged About 10 Years, S/o Late Dinesh Yadav

Appellants No. 3 to 5 Minor, Mother Appellant No.1 His Legal Guardian Smt. Parwati Yadav

All R/o House of Firanta, Near Govt. School Godwara, Raipur (C.G.)

---- Appellants/Claimants

Versus

1. Karan Singh, Aged about 50 Years, S/o Kishan Singh, Occupation of Truck Driver, R/o Gali No.3, House of Sujan Singh Jetiya Bhutiya Padav Haldwani, Thana- Bhutiya Padav, District Naini Tal (Utrakhand)
(Driver)
2. Gandip Singh S/o Gurdeep Singh, Address- E/590, Aajad Nagar Sarhind Road, Patiyala
(Owner)
3. The National Assurance Company Limited, through Officer, G.T. Road, Khanna, through Branch Manager, Branch Officer- Mobin Mahal, G.E. Road, Raipur (C.G.)
(Insurer)
4. Smt. Shyama Yadav, W/o Late Kishan Yadav, R/o Bhandari Para, Tahsil & District Kanker (C.G.)

---- Respondents/Non-applicants

For Appellants	:	Shri A.L. Singroul, Advocate
For Respondents 1, 2 & 4	:	None
For Respondent No.3	:	Shri R.N. Pusty, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

05.02.2019

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimants/Appellants, seeking enhancement of the compensation awarded by the Third Additional Motor Accident Claims Tribunal, Raipur (C.G.) vide award dated 19.08.2014 passed in M.A.C. No. 114 of 2011.

2. The Claimants, unfortunate wife and children of deceased- Dinesh Yadav, claimed compensation of Rs.28,00,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for the death of Dinesh Yadav.
3. Facts of the case, in brief, are that on 18.05.2010 deceased- Dinesh Yadav after discharging his duty was coming from Sarora market to his home at Godra by his bicycle, at about 07:40 p.m. on the way near bazar chowk, Respondent No.1- Karan Singh/driver of the offending vehicle- Truck bearing registration No. PB-11/X/8773, owned by non-applicant No.2 and insured with non-applicant No.3, driving the said vehicle in a rash and negligent manner dashed the bicycle of deceased, due to which bundle of wire, which was loaded on the truck, fell down upon the deceased and as a result thereof, the deceased sustained grievous injuries on his head, hands, leg and other part of the body. During treatment the deceased died on 19.05.2010.
4. The learned Tribunal, in the impugned award, has awarded a total compensation of Rs.6,45,500/- in favour of the Claimants with interest @ 6% per annum from the date of application till its realization and has fastened the liability upon the non-applicants to pay compensation to the Claimants jointly and severally.
5. As submitted by both the parties, no counter appeal has been filed by the Respondents.
6. Learned counsel for the Appellants/Claimants has sought enhancement of compensation only on the ground that the learned Tribunal has not awarded any amount towards future prospect to the Claimants. In support of above contention, reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**. No other issue raised by the learned counsel for the Appellants.
7. On other hand, learned counsel for Respondent No.3/Insurance Company opposes the contention made by learned counsel for the Appellants and supports the impugned award. He submits that the Tribunal has awarded amount towards conventional heads which is on the higher side, therefore, the Tribunal considering

all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court and no amount towards future prospect is to be granted to the Claimants.

8. So far as argument relating to non-grant of any amount towards future prospect is concerned, in view of the decision in the matter of *Pranay Sethi* (supra), considering the age of the deceased i.e. 42 years and the fact that he was earning Rs.3,500/- per month by doing the work of labour, there should be 25% addition to the annual income of the deceased towards future prospect.

9. On the basis of aforesaid decisions of the Hon'ble Supreme Court, this Court is of the view that the Claimants/Appellants are entitled for compensation in the following manner:-

Sl.No.	Heads	Calculation
1	Income of the deceased	Rs.3,500/- per month i.e. Rs.42,000/- per annum (as assessed by the Tribunal)
2	25% towards future prospects added to annual income	(Rs.42,000/- + Rs.10,500/-) Rs.52,500/-
3	$\frac{1}{4}$ th deduction towards personal expenses of the deceased	(Rs.52,500/- – Rs.13,125/-) Rs.39,375/-
4	Multiplier of 14 applied	Rs.39,375/- x 14=Rs.5,51,250/-
5	For loss of consortium	Rs.50,000/- (as awarded by the Tribunal)
6	For love and affection @Rs.50,000/- to the Claimants No. 3, 4 & 5 each	Rs.1,50,000/- (as awarded by the Tribunal)
7	For funeral expenses	Rs.2,000/- (as awarded by the Tribunal)
8	For loss of estate	Rs.2,500/- (as awarded by the Tribunal)
	Total Compensation	Rs.7,55,750/-

Since the Tribunal has already awarded Rs.6,45,500/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.1,10,250/-.

10. Resultantly, the appeal is allowed in part and the impugned award is modified to the extent that the Claimants/Appellants shall be entitled to a total enhanced amount of compensation of Rs.1,10,250/- with further direction of payment of interest on the enhanced amount of compensation @ 6% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

11. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge