

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 463 of 2015**

1. Kanhaiya Lal Yadav S/o Shri Ramcharan Yadav, aged about: 43 years,
2. Smt. Shushila Bai W/o Shri Kanhaiya Lal Yadav, aged about: 38 years,

Both Are R/o Village: Khadadah, Police Station: Khadadah,
Police Station: Keregaon, Tahsil: Dhamtari, Revenue and Civil
District: Dhamtari (C.G.).

---- Appellants/**Claimants****Versus**

1. Rajnish Kumar Kori S/o Shri Ramnath Kori aged about: 24 years, R/o Village: Mishriragava, Police Station & Tahsil: Churhat, District: Sidhi (M.P.), at present R/o Indian Photostate, Power House, Bhilai, Revenue and Civil District: Durg (C.G.).
2. Mohammad Jamaruddin Shekh S/o. Sirajuddin Shekh, aged about: 33 years, Durg, Revenue and Civil District : Durg (C.G.).
3. Branch Manager, Shri Ram General Insurance Company Ltd., E-8, Ricko Industrial Area, Sitapura- Jaipur, District: Jaipur (Rajasthan) 302022.

---- Respondents

For Appellant	:	Shri D. Kushwaha, Advocate.
For Respondent No.3	:	Shri Deepak Gupta, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****01/02/2019 :**

The appellants, parents of the deceased, filed an application for compensation under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.8.80 lacs. After considering evidence of both the parties, the learned Chief Motor Accident Claims Tribunal, Dhamtari

awarded total compensation of Rs.70,000/- in favour of the claimants with interest @ 6% per annum from the date of application till realization.

02. Being aggrieved by the aforesaid award dated 05.01.2015 passed in Claim Case No.39/2014, the appellants have filed the instant appeal for enhancement. However, no counter appeal has been filed by the respondents.

03. The Tribunal considering the evidence adduced by the parties held that on 05.01.2014 at about 7.00am respondent No.1 rashly and negligently manner driven Tippar bearing registration No. CG-07/4888 dashed the deceased Vasudev Yadav, aged about 12 years who was returning his home after attending the call of nature, as a result of which he sustained injuries on his head and legs and during treatment at Bathena Hospital, Dhamtari he succumbed to theses injuries; no breach of policy conditions was proved by the insurance company and thus awarded the aforesaid amount as compensation to the claimants.

04. Learned counsel for the appellants submits that the deceased was the only son of the young parents and looking to the age & bright future of deceased at the time of accident i.e. in the year of 2015, the amount awarded by the learned Tribunal is very much on the lower side and needs to be enhanced suitably as Rs. 5,00,000/- in view of the law laid down in the Apex Court Judgment in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244.***

05. On the other hand, learned counsel for the insurance company supporting the impugned award submits that at the time of accident,

deceased was aged about 12 years and not earning any money therefore, compensation amount awarded by the Tribunal is just and proper and 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, (supra)***, wherein a child aged about 10 years died in motor vehicle accident and the claimants were young parents, considering its various earlier decisions awarded Rs.4.50 lacs towards total loss of dependency. This Court in similar matter i.e. ***Smt. Safaribai Suryavansi and another Vs. Ajay Ku. Patel and others, 2015(2) CGLJ 399***, relying upon the aforesaid decision in *Kishan Gopal*, has also granted Rs.4.50 lacs towards total loss of dependency.

08. Thus, in view of the aforesaid decisions and considering the age and time of accident i.e. in the year 2015, this Court is of the opinion that the appellants/claimants are entitled for a total sum of Rs.5,0000/- lacs as compensation. Since the Tribunal has already awarded Rs70,000/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.4.30 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. Sd/-

(Gautam Chourdiya)

Judge