

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 525 of 2015**

- Sunil Kumar S/o Mahoo Rao Patley Aged About 35 Years, R/o Near Mahmood Kirana Stores, Behind Masjid, Zone-3, Khursipar, Bhilai, P.S. Tahsil And District Durg Chhattisgarh.

---Appellant**Versus**

1. G. Kamraju S/o Laxman Rao, Aged About 23 Years, R/o Qr. No. 2d, Balaji Nagar, Khursipar Bhilai Tahsil And District Durg Chhattisgarh.
2. Rajan George S/o P.G. George Aged About 46 Years R/o M.I.G. 1-/2669, M.P.H.B. Colony Industrial Area Bhilai, Tahsil And District Durg Chhattisgarh.
3. National Insurance Company Ltd., Through Branch Manager Branch Office Akashganga Parisar, Supela, Bhilai, Tahsil And District Durg Chhattisgarh.

---- Respondents

For Appellant	Shri P.R. Patankar, Advocate along with Shri Vedant Bhelonde, Advocate.
For Respondent No.3	Shri Shivendu Pandya, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

26/03/2019

01. This appeal is by the claimant against the award dated 28.02.2015 passed by the 6th Additional Motor Accident Claims Tribunal, Durg, District Durg, C.G. in Claim Case No.26/14 awarding total compensation of Rs,1,75,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance Company along with non-applicant nos. 1

& 2 jointly and severally.

02. As per claim petition, on 03.08.2013, deceased Neera Bai, aged about 54 years, earning Rs.7,142/- per month as Contract Labour in Bhilai Steel Plant, died in the motor vehicular accident caused due to rash and negligent driving of Hydra Fowler bearing no. CG07-AN-0633 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

03. On claim petition being filed by the claimant i.e. son of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.17,17,744/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. Learned counsel for the appellant submits that Tribunal has committed an error by not considering the claimant dependent upon the deceased and not awarding compensation by applying the multiplier factor whereas the claimant has duly proved his dependency upon the deceased as per his pleadings and evidence adduced before the Tribunal. Therefore, the compensation awarded by the Tribunal deserves to be enhanced suitably by this Court.

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 matter 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. No counter appeal has been filed by the respondents as submitted by both the parties.

08. It is not disputed by both the parties that deceased was the mother of the claimant. The claimant in his evidence before the Tribunal has admitted that he is major, a married person having four children. Though, he has stated that he is not having good health, however, no document concerning his illness has been filed by him. NAW-1 Sanjay Gupta examined on behalf of the Insurance Company has filed the true copy of statement of Sunil Kumar Ex.D-2 and proved the same. In the said statement, Sunil Kumar has stated that he works as a Labour in Bhilai Steel Plant as well as Bhaskar Construction and that his mother was also working in Bhilai Steel Plant as a labour. The said evidence of Sanjay Gupta NAW-1 has not been controverted by the claimant. Thus, considering the facts and circumstances of the case, the nature and quality of evidence adduced by the respective parties, the Tribunal was justified in holding that the claimant is not dependent upon the deceased. The Tribunal considering the fact that claimant is son of the deceased, in view of decision of Hon'ble

Supreme Court in the matter of ***Rajesh and others vs. Rajbeer and others, 2013 (2) ACCD 969 (SC)*** awarded Rs.1,00,000/- towards loss of love and affection, Rs.25,000/- towards funeral expenses and further considering the provisions of Section 140 of the Motor Vehicles Act awarded Rs.50,000/- towards no fault liability. Thus, the Tribunal awarded a total sum of Rs.1,75,000/- in favour of the claimant with interest @ 6% till realization. The said finding of the Tribunal being based on the proper appreciation of the evidence available on record requires no interference by this Court.

10. In the result, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh