

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 952 of 2014**

1. Shyamlal Deshmukh S/o Sukhram Deshmukh Aged About 42 (46) Years,
2. Smt. Shobha Deshmukh W/o Shyamlal Deshmukh Aged About 35 (now 39)

Both are R/o Ward No. 04, Bazarpara, Khariyar Road, P.S. Navapara, Civ:
& Rev: Distt. Navapara (Orissa)

----Appellants**Versus**

1. Neelmani Chandrakar S/o Prahlad Chandrakar Aged About 25 Years R/o Village Labra, P.S. Mahasamund, Distt. Mahasamund C.G., Presently R/o Dr. Radhakrishna Ward, Nemichand Gali, Ramsagarpara, Raipur, P.S. Moudhahpara, Civ: & Rev:, District Raipur Chhattisgarh
2. Tikamchand Sahu S/o Khadagram Sahu R/o Panduka, Rajim, P.S. Rajim, Civ: & Rev: Distt. Raipur C.G.
3. The New India Insurance Company Ltd. S/o Through Zonal Manager, Zonal Office, Madina Building, 1st Floor, Kachehari Chowk, P.S. Gol Bazar, Civ: & Rev:, Distt. Raipur C.G.

---- Respondents

For Appellants	Ms. Aparna Singh, Advocate.
For Respondent No.3	Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****09/01/2019**

1. The appellants, parents of the deceased Lakshya Kumar Deshmukh, aged 7 years, filed an application for compensation under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.36,73,500 lacs as he died on account of injuries suffered by him in a motor vehicular accident occurred on 25.12.2009 due to rash and negligent driving of vehicle Maruti Wagnor bearing registration No. CG 04/HA/7211 by non-applicant No.1. Non-applicant No.2 is the owner of the offending

vehicle and it was insured with non-applicant No.3 at the time of accident.

2. After considering evidence led by both the parties, the learned Motor Accident Claims Tribunal, Mahasamund, C.G. by the impugned award dated 31.07.2010 awarded total compensation of Rs.51,500/- in favour of the claimants with interest @ 6% pa from the date of application till realization fastening liability on non-applicants No. 2 & 3 jointly and severely.
3. Being aggrieved by the aforesaid award, the appellants have filed the instant appeal for enhancement. However, no counter appeal has been filed by the respondents.
4. Learned counsel for the appellants submits that the amount awarded by the learned Tribunal is very much on the lower side and needs to be enhanced suitably keeping in view the decision of the Hon'ble Supreme Court in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244.***
5. On the other hand, learned counsel for the insurance company supporting the impugned award submits that the amount awarded by the Tribunal is just and proper and needs no interference by this Court.
6. Heard learned counsel for the parties and perused the material available on record.
7. 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.

8. Thus, in view of the aforesaid decision, looking to the age of the parents and that of the deceased, 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.51,500/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.4,48,500/- 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.
9. With the aforesaid modification in the award impugned, the appeal stands disposed of.

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh