

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1194 of 2017

1. Sarju Ram Sahu S/o Lalak Ram Sahu, aged about 47 years
2. Smt. Savitri Bai W/o Sarju Ram Sahu, aged about 44 years
3. Govind Prasad S/o Sarju Ram Sahu, aged about 18 years (as per para-15 of impugned award)
4. Gopika Sahu D/o Sarju Ram Sahu, aged about 21 years (as per para-15 of impugned award)

All are resident of Bajrangpur Piprouda, Thana- Gobaranawapara, District- Raipur (C.G.)

---- Appellants/Claimants

Versus

1. Bodhan Sahu S/o Shiv Prasad Sahu, aged about 39 years, R/o Village Javibandha, Thana Abhanpur, District Raipur (C.G.)
(Driver)
2. Shiv Prasad Sahu R/o Village Javibandha, Thana Abhanpur, District Raipur (C.G.)
(Owner)
3. Branch Manager, The National Insurance Company Limited, Raipur, District Raipur (C.G.)
(Insurer)

---- Respondents/Non-applicants

For Appellants	:	Shri A.L. Singroul, Advocate
For Respondents 1 & 2	:	Shri A.D. Kuldeep, Advocate
For Respondent No.3	:	Shri Anil Gulati, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

06.02.2019

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 of First Additional Motor Accident Claims Tribunal, Raipur (C.G.) vide award dated 27.04.2017 passed in Claim Case No.60 of 2014.
2. The Claimants/Appellants, unfortunate mother, father, brother and sister of

deceased- Kamal Narayan, who was aged about 19 years, claimed compensation of Rs.26,30,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for death of deceased in the motor accident.

3. Facts of the case, in brief, are that on 02.11.2013 at about 08:00 p.m., deceased- Kamal Narayan was coming to his village Bajranpur by his motorcycle bearing registration No. CG-04/ZS/3904, at that time, Respondent No.1-Bodhan Sahu driver of the offending vehicle Tractor bearing registration No. C.G.-04/DB/3751 driving the said vehicle in a rash and negligent manner dashed the motorcycle of Kamal Narayan due to which he fell down on the road and sustained grievous injuries and died on spot.

4. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.3,84,000/- in favour of the Appellants/Claimants with simple interest @ 6% per annum from the date of application till realization and fastened the liability upon the Insurance Company/non-applicant No.3 alongwith non-applicants No. 1 & 2 jointly and severally.

5. Learned counsel for the Claimants/Appellants submits that the accident occurred in the month of November, 2013, the deceased was doing the work of auto & motor-mechanic and was earning Rs.10,000/- per month. Even, as per minimum wages prevalent at that time his monthly income ought to have been taken at Rs.5,000/- but the Tribunal has considered the same as Rs.3,000/- per month which appears to be on the lower side. He further submits that the Tribunal has not awarded any amount towards future prospect and this may also be granted in this appeal in view of **National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680.**

6. Learned counsel for Respondents No. 1 to 3, however, oppose the appeal and submits that the learned Tribunal has rightly awarded the amount of compensation, therefore, it is just and reasonable, which does not call for any interference in the instant appeal.

7. I have heard the learned counsel appearing for the parties and perused the

impugned award including the records of the Claims Tribunal.

8. So far as argument relating to income of the deceased is concerned, the Tribunal has determined the monthly income of the deceased as Rs.3,000/-. As the contention of the Claimants is that he was doing the work of auto & motor-mechanic and was earning Rs.10,000/- per month, looking to the age of deceased i.e. 19 years and the minimum wages & price index at the relevant time, this Court is of the opinion that the income considered by the Tribunal as Rs.3,000/- per month is on the lower side and it can safely be taken as Rs.4,500/- per month.

9. So far as argument relating to non-grant of any amount towards future prospect is concerned, in view of the decision in *Pranay Sethi* (supra), considering the age of the deceased i.e. 19 years and nature of his job, there should be 40% addition to the annual income of the deceased towards future prospect.

10. On the basis of aforesaid discussions, this Court is of the view that the Claimants/Appellants are entitled for compensation in the following manner:

Sl.No.	Head	Calculation
1	Income of the deceased	Rs.4,500/- per month i.e. Rs.54,000 per annum
2	40% towards future prospects added to annual income	(Rs.54,000/- + Rs.21,600/-) Rs.75,600/- per annum
3	50% deduction towards personal expenses of the deceased	(Rs.75,600/- – Rs.37,800/-) Rs.37,800/-
4	Multiplier of 18 applied	Rs.37,800/- x 18 = Rs.6,80,400/-
5	For funeral expenses	Rs.20,000/- (as awarded by the Tribunal)
6	Towards loss of filial consortium @ Rs.10,000/- to Appellants/Claimants No. 1 & 2 each and other consortium	Rs.40,000/- (as awarded by the Tribunal at para 20 of the impugned award)
	Total Compensation	Rs.7,40,400/-

Since the Tribunal has already awarded Rs.3,84,000/-, after deducting the same from the above amount, the Claimants are held entitled for additional compensation of Rs.3,56,400/-.

11. 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.3,56,400/- with further direction of payment of interest on the enhanced amount of compensation @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

12. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge