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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 724 of 2019

1. Dushman Bedta S/o Late Bela Bedta, aged about 43 years
2. Smt. Tirangi Bedta W/o Dushman Bedta, aged about 40 years
3. Miss Maso Bedta D/o Dushman Bedta, aged about 22 years
4. Ramesh Kumar Bedta S/o Dushman Bedta, aged about 19 years

All are Resident of School Para Village Tirthum Post Dilmili P.S. Kodenar, District Bastar (C.G.)

---- Appellants/Claimants

Versus

1. Kalik Ram Sethiya S/o Late Tulsi Ram Sethiya, aged about 28 years, R/o Sethiyapara Village Raykot, P.S. Kodenar, District Bastar (C.G.)
(Driver of the Vehicle)
2. Amrik Singh S/o Guljar Singh R/o Gangamunda Ward Geedam Road Jagdalpur, District Bastar (C.G.)
(Owner of the Vehicle)
3. The New India Assurance Co. Ltd. Through Branch Manager Opposite Bhadouriya Bhawan Akaswani Road, Jagdalpur, District Bastar (C.G.)
(Insurer)

---- Respondents/Non-applicants

And

Miscellaneous Appeal (Civil) No. 750 of 2019

1. Smt. Bhagyashwari Poyami Wd/o Masoram Poyami, aged about 21 years
 2. Smt. Aayte Poyami Wd/o Late Sannu Poyami, aged about 55 years
- Both are Resident of Patel Para, Village Katakanda, Post Dilmili, P.S. Kodenar, District Bastar (C.G.)

---- Appellants/Claimants

Versus

1. Kalik Ram Sethiya S/o Late Tulsi Ram Sethiya, aged about 28 years, R/o Sethiyapara Village Raykot, P.S. Kodenar, District Bastar (C.G.)
(Driver of the Vehicle)
2. Amrik Singh S/o Guljar Singh R/o Gangamunda Ward Geedam Road Jagdalpur, District Bastar (C.G.)
(Owner of the Vehicle)
3. The New India Assurance Co. Ltd. Through Branch Manager Opposite Bhadouriya Bhawan Akaswani Road, Jagdalpur, District Bastar (C.G.)
(Insurer)

---- Respondents/Non-applicants

For Appellants/Claimants	:	Shri Pravin Kumar Tulsyan, Advocate
For Respondents 1 & 2/ Driver & Owner	:	None
For Respondent No.3/ Insurance Company	:	Shri Deepak Gupta, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

26.06.2019

1. As both above appeals arise out of the same accident occurred on 18.09.2017 involving the same vehicle Tipper bearing registration No. CG-17/H/3202 (hereinafter referred to as "offending vehicle"), they are being disposed of by this common judgment.
2. Both appeals arise out of separate awards dated 16.01.2019 by the Motor Accident Claims Tribunal, Bastar at Jagdalpur (C.G.) in Claim Case No. 14/2018 and Claim Case No. 03/2018 awarding compensation in favour of the Claimants of Rs.7,00,000/- (in Claim Case No.14/2018) and Rs.12,18,728/- (in Claim Case No. 03/2018) with interest @ 9% per annum from the date of claim applications till realization respectively fastening liability on the Insurance Company/non-applicant No. 3.
3. Non-applicant No.1 – Kalik Ram Sethiya is driver, non-applicant No.2 – Amrik Singh is owner and non-applicant No.3 is insurer of the offending vehicle.
4. In M.A.(C) No. 724 of 2019 (arises out of Claim Case No. 14/2018), the Claimants unfortunate parents, sister and brother of deceased- Baghel Bedta, claimed compensation of Rs.18,50,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for death of Baghel Bedta. At the time of accident, deceased- Baghel Bedta aged about 23 years & student of I.T.I. was earning Rs.8,000/- per month by doing the Computer related work in his home.
5. In M.A.(C) No. 750 of 2019 (arises out of Claim Case No. 03/2018), the Claimants unfortunate wife and mother of deceased- Masoram Poyami, claimed compensation of Rs.18,50,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for death of Masoram Poyami. At the time of accident, deceased- Masoram Poyami aged about 22 years was earning Rs.8,000/- per month as driver.
6. Facts of the case, in brief, are that on 18.09.2019, the deceased persons

namely- Baghel Bedta and Masoram Poyami were going towards their residence at Kodenar by a motorcycle of their friend Mannuram, bearing registration No. CG-17/KB/4882. When they reached near Government Higher Secondary Girls School, non-applicant No.1- Kalik Ram Sethiya, driver of the offending vehicle, driving the said vehicle in a rash and negligent manner dashed the motorcycle in which the deceased persons were pillion riders. As a result thereof, both Baghel Bedta and Masoram Poyami sustained grievous injuries and died on spot.

7. No counter appeal has been filed by the Respondents as submitted by the learned counsel for both the parties.

8. In M.A.(C) No. 724 of 2019, learned counsel for the Claimants/Appellants submits that income of the deceased has wrongly been considered by the Tribunal as Rs.5,000/- whereas it should have been Rs.6,000/-. He further submits that no amount towards future prospect has been granted to the Claimants. In support of his 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.***

In M.A.(C) No. 750 of 2019, he submits that income of deceased has wrongly been considered by the Tribunal as Rs.5,500/- whereas it should have been Rs.7,000/-.

9. Learned counsel for Respondent No 3/Insurance Company supports both the impugned awards and submits the Tribunal considering all the relevant aspects of the matters has rightly awarded compensations which need no interference by this Court.

10. Heard learned counsel for the parties and perused the material available on both the records.

11. As regards income of the deceased in M.A.(C) No. 724/2019, the Claimants have pleaded that the deceased was earning Rs.8,000/- per month by doing the Computer related work in his home but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof

regarding income, the income of the deceased is considered as Rs.6,000/- per month as per minimum wages at the relevant time and in view of the decision in *Pranay Sethi* (supra), the Claimants/Appellants is also entitled for 40% future prospects.

As regards income of the deceased in M.A.(C) No. 750/2019, the Claimants have pleaded that the deceased was earning Rs.8,000/- per month as driver but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.7,000/- per month as per minimum wages at the relevant time for skilled person.

12. Further, considering the age of deceased- Baghel Bedta i.e. 23 years who was unmarried and deceased- Masoram Poyami i.e. 22 years who was married, the dependency, the nature of their jobs and the decisions of the Hon'ble Supreme Court in *Pranay Sethi* (supra); ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121*** and ***Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No. 9581/2018 arising out of SLP (Civil) No. 3192/2018***, in both appeals, the Claimants/Appellants are held entitled for compensation in the following manner:-

(A) In M.A.(C) No. 724 of 2019 arising out of Claim Case No. 14/2018:

Sl.No.	Head	Calculation
1	Income of the deceased	Rs.6,000/- per month i.e. Rs.72,000/- per annum
2	40% towards future prospects added to income	(Rs.72,000/- + 28,800/-) Rs.1,00,800/-
3	50% deduction towards personal expenses of the deceased	(Rs.1,00,800/- – Rs.50,400/-) Rs.50,400/-
4	After multiplier of 18 applied	Rs.50,400/- x 18 = Rs.9,07,200/-
5	For funeral expenses	Rs.15,000/- (as awarded by the Tribunal)
6	For loss of estate	Rs.15,000/- (as awarded by the Tribunal)
7	For loss of love and affection to Claimants No. 3 & 4	Rs.50,000/- (as awarded by the Tribunal)

8	For loss of filial consortium to Claimants No. 1 & 2	Rs.80,000/- (as awarded by the Tribunal)
	Total Compensation:	Rs.10,67,200/-

Since the Tribunal has already awarded Rs.7,00,000/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.3,67,200/- with interest as awarded by the Tribunal.

(B) In M.A.(C) No. 750 of 2019 arising out of Claim Case No. 03 of 2018:

Sl.No.	Head	Calculation
1	Income of the deceased	Rs.7,000/- per month i.e. Rs.84,000/- per annum
2	40% towards future prospects added to income	(Rs.84,000/- + Rs.33,600/-) Rs.1,17,600/-
3	1/3rd deduction towards personal expenses of the deceased	(Rs.1,17,600/- – Rs.39,200/-) Rs.78,400/-
4	After multiplier of 18 applied	Rs.78,400/- x 18 = Rs.14,11,200/-
5	For funeral expenses	Rs.15,000/- (as awarded by the Tribunal)
6	For loss of estate	Rs.15,000/- (as awarded by the Tribunal)
7	For loss spousal consortium	Rs.40,000/- (as awarded by the Tribunal)
8	For loss of filial consortium to Claimant No. 2	Rs.40,000/- (as awarded by the Tribunal)
	Total Compensation:	Rs.15,21,200/-

Since the Tribunal has already awarded Rs.12,18,728/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.3,02,472/- with interest as awarded by the Tribunal.

13. In the result, the above both appeals filed by the Claimants are allowed in part with modification in the impugned award to the above extent. However, rest of the conditions of the impugned award shall remain intact.

14. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge