

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 863 of 2019**

1. Vijay Kaushik S/o Gorelal Kaushik Aged About 49 Years,
 2. Smt. Sangita Kaushik W/o Vijay Kaushik Aged About 43 Years,
- Both are R/o Village Pipartarai Tahsil And Police Station Kota,
Tahsil And District Bilaspur (C.G.).

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

1. Mahesh Kumar Wadhwani S/o Vindhyachal Wadhwani Shop,
Number 6, Transport Nagar, Ravanbhatha, Raipur, District
Raipur (C.G.) (Owner Of Vehicle Reg. No. C.G. 04 Z.A. 6552).
2. Branch Manager, Bhartiya Axa General Insurance Company
Limited, 414 Third Floor, Land Mark Complex, Karbala Road,
Purna Bus Stand Road Bilaspur, Tahsil And District Bilaspur
(C.G.) (Insurer Of The Vehicle)

---- Respondents

For Appellants	:	Shri Akhtar Hussain, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****07/05/2019**

- 1) This appeal is preferred by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 27/03/2019 passed by Sixth Additional Motor Accident Claims Tribunal Bilaspur (C.G.) in Claim Case No. 405/2017 awarding total compensation of Rs. 28,51,836/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on the respondents/non-applicants jointly and severally.
- 2) As per averments in the claim petition, deceased Ku. Honey Kaushik on 01/10/2016 at around 08:30 PM, aged about 21

years was a Medical College student (MBBS). Near village Chorbhati at Shisham Plant Kota D.C. Ramlu (now died), who was driving the offending vehicle Truck bearing No. CG04 ZA 6552 rashly and negligently dashed the motorcycle of deceased. Consequently, deceased Ku. Honey Kaushik suffered grievous injury and died during treatment. Offending vehicle was owned by non-applicant No.1/Mahesh Kumar Wadhwani and insured with non-applicant No. 2/Bhartiya Axa General Insurance Company Limited.

- 3) On claim petition being filed by the claimants' parents of the deceased under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 4) Learned counsel for the appellants/claimants submits as though he has raised various grounds in this memo of appeal, however, he is not pressing on those grounds and is assailing the awards on the following grounds only :-
 - i. that monthly income of the deceased has wrongly been considered by the Tribunal as Rs. 18,000/-; whereas it should have been Rs. 50,000/- as she was studying in Medical college 1st year student.
 - ii. that amount towards future prospect has been granted to the claimants, which is also on lower side.
 - iii. that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably.
- 5) I have heard learned counsel for the appellant and perused the award impugned.
- 6) As regards income of the deceased, though the claimants have pleaded that the deceased was a brilliant Medical Student (MBBS), if deceased would have to alive than she would have to earn minimum Rs. 50,000 per month. Therefore, in this

circumstances, the income of the deceased has been considered as Rs. 18,000/-, looking to the non-earning person and qualification of the deceased learned Tribunal considered Rs. 18,000/- per month. The Tribunal considering the age of the deceased as 21 years on the basis of documents available on record, the dependency, keeping in view the decision of Hon'ble Supreme Court in ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121 and National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680*** applied multiplier 18, deducted $\frac{1}{2}$ towards personal and living expenses of the deceased and also 40% towards future prospects. The Tribunal further awarded Rs. 40,000/- towards love and affection, Rs. 60,236/- towards medical expenses, Rs. 15,000/- towards funeral expense and Rs. 15,000/- towards loss of estate. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned award and not disputed by the appellants/claimants counsel, the said assessment appears to be just and proper, warranting no interference by this Court.

- 7) Resultantly, the appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

**-Sd/-
(Gautam Chourdiya)
Judge**