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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 324 of 2015

- Branch Manager, United India Insurance Company Limited, Branch Office- Bramha Road near Kumkum Hotel, Ambikapur, P.S.- Ambikapur, District Surguja (C.G.) Through Authorized Authority Divisional Manager, Divisional Office-2nd Floor Gurukripa Towers, Vyapar Vihar Road, Bilaspur, District Bilaspur (C.G.)

---- Appellant/Non-applicant No.2/Insurance Company

Versus

1. Dilmati Bai, Wd/o Late Pradeep Kumar, aged about 25 years, Occupation- Housewife
2. Baldevram S/o Late Gujra, aged about 50 years, Caste- Uraon, Occupation- Agriculturist
3. Lalmuni Devi W/o Baldev, aged about 45 years, Occupation- Housewife
4. Kumari Sakshi Toppo D/o Pradeep Kumar, aged about 7 months, minor through Mother Dilmati Bai (Respondent No.1)

Respondents No. 1 to 4 all are R/o Village Bada, P.S. and Tahsil- Shankargarh, District Balrampur

(Respondents 1 to 4 are Claimants)

5. Dharamveer Kumar Singh S/o Ramnaresh Singh, Occupation Truck Driver, R/o Mohalla-Bhatthi Road Kedarpur, Ambikapur, District Surguja (C.G.)
(Driver)/Non-applicant No.1

---- Respondents

For Appellant	:	Shri Dashrath Gupta, Advocate
For Respondents 1 to 4	:	Shri A.N. Pandey, Advocate
For Respondent No.5	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

08.03.2019

1. Being aggrieved with the award dated 16.01.2015 passed in M.A.C. No. 182 of 2012 by the Motor Accident Claims Tribunal Surguja (Ambikapur), C.G., the Appellant/Insurance Company/non-applicant No.2 has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the quantum of compensation.
2. The Claimants, unfortunate wife, daughter and parents of deceased- Pradeep Kumar aged about 24 years, claimed compensation of Rs.21,50,000/- by filing a claim petition under Section 163A of the Motor Vehicles Act, 1988 for death of Pradeep Kumar in the motor accident.

3. Brief facts of the case are that on 15.09.2012 deceased- Pradeep Kumar was going towards Village- Meral from Village- Samri by driving the Truck loaded with Bauxite bearing registration No. CG-15/A/5340, owned by non-applicant No.1 and insured with non-applicant No.2, when he reached near Village- Chiraighat, the said Truck turned turtle due to sudden mechanical fault. As a result thereof, Pradeep Kumar received serious injuries and died on spot.

4. The learned Tribunal, in the impugned award has awarded a compensation of Rs.8,34,722/- in favour of the Claimants with interest @ 6% per annum from the date of application till its realization and has fastened liability upon the non-applicants jointly and severally to pay compensation to the Claimants.

5. Learned counsel for the Appellant/Insurance Company submits that the Tribunal has wrongly deducted 1/4th towards personal and living expenses of the deceased, whereas as per the Second Schedule under Section 163 of the Motor Vehicles Act, 1988 it should have been 1/3rd. He further submits that so far as grant of 50% future prospect by the Tribunal is concerned, there is no provision for future prospect in the Second Schedule under Section 163A of the Motor Vehicles Act, 1988 and the amount awarded under the conventional heads also being on the higher side deserves to be reduced suitably.

6. On the other hand, learned counsel for the Claimants 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. So far as argument raised by learned counsel for the Appellant/Insurance Company regarding high amount under the conventional heads awarded by the Tribunal is concerned, in view of the decision of the Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680** the amount awarded also being on the lower side deserves to be enhanced suitably.

7. Heard learned counsel for the parties and perused the material available on record.

8. It is not disputed by the parties that the claim petition was filed under 163A of

the Motor Vehicles Act, 1988 and it is also not in dispute that the accident took place on 15.09.2012 by driving the Truck by the deceased. Therefore, considering the facts and circumstances of the case, particularly considering the age of deceased i.e. 24 years, as per Second Schedule under Section 163A of the Motor Vehicles Act, 1988 and the decision in the matter of *Pranay Sethi* (supra), the Claimants are held entitled for compensation in the following manner:

Sl.No.	Heads	Calculation (In rupees)
1.	Income of the deceased	Rs.3,291/- per month i.e. Rs.39,492/- per annum
2.	40% towards future prospects added to annual income	(Rs.39,492/- + Rs.15,797/-) Rs.55,289/-
3.	1/3rd deduction towards personal and living expenses of Deceased	(Rs.55,289/- – Rs.18,430/-) Rs.36,859/-
4.	Multiplier of 18 applied	Rs.36,859/- x 18 = Rs.6,63,462/-
5.	Under Conventional heads i.e. loss of estate, loss of consortium & funeral expenses	Rs.70,000/-
	Total Compensation	Rs.7,33,462/-

Thus, the Claimants are awarded Rs.7,33,462/- instead of Rs.8,34,722/- as awarded by the Tribunal.

9. For the foregoing reasons, the appeal is allowed in part. The amount of compensation of Rs.8,34,722/- awarded by the Tribunal is reduced to Rs.7,33,462/-. The amount of compensation of Rs.7,33,462/- shall carry interest @ 6% per annum from the date of application till its realization as awarded by the Tribunal. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge