

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 448 of 2014

1. Goutam Sidar S/o Akbar Singh Sidar Aged About 28 Years, Caste Markam (Gond), Occupation Private Service (Fabrication).
2. Smt. Punam W/o Goutam Sidar Aged About 25 Years, Occupation Service.

Both R/o Village-Amakani (Manjhapara), P.S. And Tah. Patthalgaon, Distt. Jashpur, At Present Nichepara, Dharamjaigarh, Tah. And P.S. Dharamjaigarh, Civil and Revenue Distt. Raigarh C.G.

---- Appellants/claimants

Versus

1. Harjindar Singh S/o Kalyan Singh Aged About 61 Years, Occupation Vehicle Owner, R/o G-03, D. Block, D. Choudhari Madhusudan Complex, Dimna Chowk, Mango Jamshedpur Singhbhum Jharkhand, Pin- 831012, Jharkhand
2. Hariram Kewat S/o Jabbar Kewat Aged About 45 Years, Occupation Driver, R/o Village Khiridih, P.S. Kaptanganj, Distt. Ajamgarh U.P.
3. Branch Manager ICICI Lombard General Insurance Co. Ltd., Jamshedpur, Office Commercial Bhawan, Devendra Nagar, Raipur C.G.

---- Respondents

For Appellants	:	Shri Praveen Dhurandhar, Adv.
For Respondent Nos.1 & 2	:	None.
For Respondent No.3	:	Shri Saurabh Sharma, Adv.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

30/01/2019

The appellants, parents of the deceased Ku. Shreya Sidar, aged 1 ½ years, filed an application for compensation under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.26.80 lacs as she died on account of injuries suffered by her in a motor vehicular accident occurred on 14.9.2012 due to rash and negligent driving of vehicle Trailor bearing registration No. NL-01-D-3289 by non-applicant No.2. Non-applicant No.1 is the owner of the offending vehicle and it was insured with non-applicant No.3 at the time of accident.

02. After considering evidence led by both the parties, the learned Motor Accident Claims Tribunal, Raigarh by the impugned award dated 18.2.2014 passed in Claim Case No.152/2012 awarded total compensation of Rs.1,02,000/- in favour of the claimants with interest @ 6% pa from the date of application till realization fastening liability on non-applicants No. 1 to 3 jointly and severally.

03. 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.

04. Learned counsel for the appellants submits that the Tribunal has wrongly applied multiplier of 10 on the basis of age of parents of the deceased and further erred in taking notional income of the deceased as Rs.15,000/- whereas considering the fact that the accident occurred in the year 2012, the minimum wages and the price index at the relevant time, it should have taken at Rs.6,000/- per month. Further, in view of decision of Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**, future prospect should have been considered by the Tribunal but no amount towards the same has been granted. He further submits that the amount awarded under the conventional heads also being very much on the lower side needs to be enhanced suitably. Lastly he submits that at least the Tribunal should have granted Rs. 5 lacs in view of decision of the Hon'ble Supreme Court in the matter of **Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244**.

05. 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 as the deceased was only 1 ½ years old and she was not an earning person.

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

07. 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 and other conventional heads.

08. 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.1,02,000/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.3.98 lacs 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.

09. With the aforesaid modification in the award impugned, the appeal stands disposed of.

Sd/

**(Gautam Chourdiya)
Judge**