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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 90 of 2014

1. Subhash Prasad Sahu S/o Late Shri Gulab Chand Sahu, aged about 49 years
2. Smt. Radha Devi W/o Subhash Prasad, aged about 45 years
Both R/o Village- Laxmipur, Post, Police Station & Tahsil- Ambikapur,
District (Revenue & Civil) Surguja (C.G.)

---- Appellants/Claimants

Versus

1. Piyush Kumar Vaidh S/o Divesh Kumar Vaidh, aged about 21 years, Occupation- Business, R/o Near Collector Bangala, Pratappur Road, Police Station & Tahsil- Ambikapur, District (Revenue & Civil) Surguja (C.G.)
(Owner)/Non-applicant No.1
2. Halaknath Paikara S/o Motiram Paikara, aged about 32 years, Occupation- Driver, R/o Village Karsi, Police Station & Tahsil- Pratappur, District (Revenue & Civil) Surguja (C.G.)
(Driver)/Non-applicant No.2
3. United India Insurance Company Limited, Branch Ambikapur through Branch Manager, United India Insurance Company Branch Road Ambikapur, Police Station & Tahsil- Ambikapur, District (Revenue & Civil) Surguja (C.G.)
(Insurer)/Non-applicant No.3

---- Respondents/Non-applicants

For Appellants	:	Shri Vineet Pandey, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Dashrath Gupta, 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 First Additional Motor Accident Claims Tribunal, Ambikapur, Surguja (C.G.) vide award dated 07.11.2013 passed in M.A.C. No. 23 of 2013.
2. The Claimants/Appellants, unfortunate father and mother of deceased- Rupesh Kumar Sahu aged about 20 years, claimed compensation of Rs.1,28,00,000/- by filing a claim petition under Section 163A of the Motor Vehicles Act, 1988 for death of their son- Rupesh Kumar Sahu in the motor accident.
3. Brief facts of the case, in brief, are that on 11.11.2012 at about 10:00 pm deceased- Rupesh Kumar Sahu was returning along with non-applicant No.1 and 2 from Allahbad to his village- Laxmipur by travelling in Tavera vehicle bearing

registration No. CG-11/BB/9654, when they reached near village Rajapur, District Mirzapur, one unknown Truck dashed the Tavera vehicle due to which Rupesh Kumar Sahu sustained grievous injuries and was hospitalized. During treatment in the hospital Rupesh Kumar Sahu died.

4. The learned Tribunal, in the impugned award has awarded a compensation of Rs.2,44,500 in favour of the Appellants/Claimants with interest @ 7.5% per annum from the date of application till its realization and has fastened liability upon the Insurance Company/non-applicant No.3 along with non-applicant No. 1 and 2 (owner and driver) jointly and severally to pay compensation to the Claimants.

5. Learned counsel for the Appellants/Claimants submits that the Tribunal has considered the age of the deceased as 20 years and as per the Second Schedule under Section 163A of the Motor Vehicles Act, 1988, the Tribunal has wrongly applied the multiplier of 10 whereas it should have been 16. 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.***

6. On the other hand, learned counsel for Respondent No.3/Insurance Company 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 non-grant of future prospect is concerned, there is no provision for future prospects in the Second Schedule under Section 163A of the Motor Vehicles Act, 1988.

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

8. In the present case, the deceased was student of 3rd Semester of Engineering College and earning Rs.3,000/- per month by doing the work of typing, screening and drafting relating to Computer. Therefore, the Tribunal has rightly considered the monthly income of the deceased as Rs.3,000/-. Looking to the age

of deceased i.e. 20 years and as per Second Schedule under Section 163A of the Motor Vehicles Act, the Tribunal has wrongly applied the multiplier of 10 whereas it should have been 16. In view of the decision in the matter of *Pranay Sethi* (supra), the Claimants are also entitled for 40% towards future prospect. Thus, the Claimants/Appellants are held entitled for compensation in the following manner:

Sl.No.	Heads	Calculation (In rupees)
1.	Income of the deceased	Rs.3,000/- per month i.e. Rs.36,000/- per annum
2.	40% towards future prospects added to annual income	(Rs.36,000/- + Rs.14,400/-) Rs.50,400/-
3.	1/3rd deduction towards personal and living expenses of Deceased	(Rs.50,400/- – Rs.16,800/-) Rs.33,600/-
4.	Multiplier of 16 applied	Rs.33,600/- x 16 = Rs.5,37,600/-
5.	Towards loss of estate	Rs.2,500/- (as awarded by the Tribunal)
6.	Towards Funeral expenses	Rs.2,000/- (as awarded by the Tribunal)
	Total Compensation	Rs.5,42,100/-

9. Since the Tribunal has already awarded Rs.2,44,500/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.2,97,600/- with interest @ 7.5% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

10. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

11. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge