

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 528 of 2015**

1. Ashok Gupta S/o Late Bigan Sao aged about 45 years.
2. Smt. Sunita Gupta W/o Ashok Gupta Aged about 40 years.

All are R/o Village- Bhatko (Santipara) post, P.S. & Tehsil- Batouli Distt.- Surguja (C.G.).

---- Appellants

Versus

1. Ranjeet Singh Yadav S/o Madan Singh Yadav Aged about 54 years
Occupation- Driver R/o Village Saidpur (Kelwa) P.S. –Gazipur- Distt-
Gazipur.
2. Phateh Bahadur Singh S/o Kashinath Singh aged- Major Occupation-
Owner R/o Village Chandipur Post- Amol Distt- Mirjapur (U.P.) but
wrongly mention as (C.G.)
3. Branch Manager Shriram General Insurance Company E.P.I.P. Riko
Industrial Area Sitapur- Jaipur (Rajsthan).

---- Respondent

For Appellant	: Shri A. N. Pandey, Advocate
For Respondent No. 3	: Shri Deepak Gupta, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

03.01.2019

This is claimants' appeal seeking enhancement of compensation awarded by Additional Motor Accident Claims Tribunal, Ramanujganj, District- Balrampur (for short 'the Tribunal') in claim case No. 108/2012 vide award dated 13.02.2015.

2. Facts of the case, as per claim petition are that on 01.09.2012 at about 9.45am respondent No. 1- Ranjeet Singh Yadav was driving rashly

and negligently the offending vehicle (truck) bearing registration No. HR38-H/6952 and dashed the bicycle of deceased- Ankit aged about 16 years, as a result of which he sustained grievous injuries and while he was taking to the hospital for his treatment on the way he died.

3. As against compensation of Rs. 09,35,000/- claimed by unfortunate parents of deceased- Ankit, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for his death in the motor accident on 01.09.2012, the Tribunal awarded a total sum of Rs. 2,00,000/- as compensation along with interest @ 9 % per annum from the date of filing of claim petition till its actual payment.

4. Learned Tribunal, on a close scrutiny of the entire evidence available on record held that the accident has occurred due to rash and negligent driving of offending vehicle (truck) bearing registration No. HR38-H/6952, by its driver respondent No.1; assessed and awarded aforesaid amount of compensation to the appellants/claimants.

5. Learned counsel appearing for the claimants would submit the Tribunal has fallen in error in assessing the notional income of deceased as Rs. 3,000/- only whereas it should be considered as Rs. 4500/- per month as his notional income in the year 2012. He also submits that the learned Tribunal has wrongly applied the multiplier as 10 in place of 16 by ignoring the law laid down by the Hon'ble Apex Court Judgment in the matter of **Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr.** reported in **2009 (6) SCC121**, the multiplier would be applied on the age of the deceased instead of age of the parents of the deceased. He would also submit that learned

Tribunal has not awarded any amount towards future prospect which may also be provided. He would further submit that amount awarded under the head of funeral expenses and loss of estate is also on the lower side, which deserve to be suitably enhanced.

6. Learned counsel for the respondent opposes the arguments made by learned counsel for the appellants/claimants and submits that learned Tribunal is justified in awarding total amount of Rs. 2,00,000/- to the claimants as they are not the dependent upon the deceased, and, therefore, there is no need of interference with the award passed by the Claims Tribunal.

7. I have heard learned counsel appearing for the parties and perused the impugned award including the record of Claims Tribunal.

8. A bare perusal of the evidence adduced in the case would reveal that as per the claimants the deceased was studying in 12th class and a bright student. Looking to the time of accident i.e. In the year 2012, the Tribunal has fallen in error in considering the income of the deceased as Rs.3,000/- per month whereas the Tribunal ought to have considered as Rs.4500/- per month considering the price index and minimum wages at the relevant time. In the matter of **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. In civil appeal No. 9581 of 2018 arising out of SLP[Civil] No. 3192 of 2018** the Hon'ble Supreme Court has granted amount for loss of filial, apart from awarding towards other conventional heads therefore, in the instant case Rs. 20,000/- towards filial consortium can be considered. In view of the judgment of the

Supreme Court in the matter **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680 & Sarla Verma (Smt.) (supra)**, I consider it appropriate to award 40% towards future prospect in the yearly income of the deceased.

9. On the basis of above, I propose to re-compute the amount of compensation as under :-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.45,00x12=Rs.54,000/- per annum
02.	40% of above(i) to be added towards future prospects	Rs = 54,000+21,600/-= Rs.75,600/-
03.	1/2th deduction towards personal and living expenses of the deceased	Rs. 37,800/-.
04.	Multiplier of 18 to be applied	Rs.6,80,400/-
05.	Towards other head(funeral expenses, loss of estate & filial loss)	Rs,15,000+15,000+ 20,000= Rs. 50,000/-
05	Total compensation towards loss of dependency	Rs. 7,30,400/-

10. In view of foregoing, the appeal filed by the claimants is partly allowed The compensation of Rs.2,00,000/- awarded by the Tribunal is enhanced to Rs. 7,30,400/-. The additional amount of compensation of Rs.5,30,400/- shall carry interest @ 9% per annum from the date of application till its actual payment. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above

extent.

11. The respondent No. 3/Shriram General Insurance Company is directed to deposit enhanced amount of compensation of Rs. 5,30,400/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita