

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 269 of 2015**

- Branch Manager, The National Insurance Company Limited, Near Main Post Office, Jagdalpur, District- Bastar, Chhattisgarh.

----Appellant**Versus**

1. Naveen Kashyap S/o Parsuram Kashyap @ Shalim, Aged About 25 Years, Caste Isai, R/o Shanti Nagar, Ward Jagdalpur, District- Bastar.
2. Devisingh S/o Sonsay, Aged About 35 Years, Caste Mahra, R/o Kalcha, Kotwarpara, Police Station Nagarnar, District- Bastar, Chhattisgarh.
3. Commissioner, Nagar Palika Nigam Office Nagar Palika Nigam Bhavan, Bus Stand Road, Shanti Nagar Ward, Jagdalpur, District- Bastar, Chhattisgarh.

---- Respondents

For Appellant
For Respondent No.1

Shri G.V.K. Rao, Advocate.
Shri A.L. Singroul, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

29/03/2019

1. This appeal is by the Insurance Company/non-applicant no.3 against the award dated 11.11.2014 passed by the 3rd Additional Motor Accident Claims Tribunal, Bastar, Place Jagdalpur, C.G. in Claim Case No.99/14 awarding total compensation of Rs.3,70,000/- with interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicant no.3/Insurance Company.

2. As per claim petition, on 09.03.2012 deceased Ayush Kashyup, aged about 1 ½ years, minor child, died in the motor vehicular accident caused due to rash and negligent driving of Tractor (Tanker) bearing no.CG17-G-1356 by non-applicant No. 1/respondent no.2. At the time of accident, the offending vehicle was owned by non-applicant nos.2/respondent no.3 and insured with non-applicant no.3/appellant herein.
3. On claim petition being filed by the claimant father of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.4,45,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.
4. Learned counsel for the appellant/claimant submits that though he has raised various grounds in the memo of appeal, however, he is not pressing all those grounds and is assailing the award only on the sole ground that notional income of the deceased i.e. Rs.3,000/- per month considered by the Tribunal is on higher side, which needs to be reduced suitably.
5. On the other hand, learned counsel for the respondent no.1 opposes the contention made by the appellant's counsel.
6. Heard learned counsel for the parties and perused the

material available on record.

7. Considering the facts and circumstances of the case, particularly the fact that it is not disputed by both the parties that the deceased Ayush Kashyup was minor aged about 1 $\frac{1}{2}$ years on the date of accident and had not started earning, had he been alive, he would have certainly contributed substantially to the family of appellant by working hard, therefore, the income of the deceased considered by the Tribunal as Rs.3,000/- per month on notional basis is just and proper. Though the application for compensation was filed by the claimant under Section 166 of the Motor Vehicles Act, however, the Tribunal considering the judgment of the Hon'ble Supreme Court in the matter of ***R.D. Hattangadi, 1995 ACJ 366 and State of Haryana Vs. Jasbeer Kaur, 2003 ACJ 1800*** as also the judgment of this Court in the matter of ***Jageshwar Sahu and others vs. Ghasiram Chauhan and others 2011 (3) CGLJ 562*** and judgment in ***Revti Bai and others vs. Bodhan Thakur 2010 Volume (2) ACT 43***, looking to the age of the deceased assessed the loss of annual dependency @ of Rs.24,000/- on notional basis and further awarded Rs.5,000/- towards loss of estate and Rs.5,000/- towards funeral expenses. Thus, after applying the multiplier of 15 in view of decision of the Hon'ble Supreme Court in the matter of ***Amrit Bhanushali and others vs. National Insurance Company and others,***

2012 (2012) 11 SCC 738, assessed the total loss of dependency as Rs.3,60,000/- and granted a total compensation of Rs.3,70,000/-. This Court finds no illegality in the compensation so made by the Tribunal in the given facts and circumstances of the case.

8. In the result, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh