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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1317 of 2018**

1. Vishakha Sahu W/o Lilaram Sahu, aged about 45 years

2. Gopal Ram Sahu S/o Lilaram Sahu, aged about 22 years

Both are resident of Village Kanesar, Police Station Chhura,
District Gariyaband C.G.

3. Dumeshwari Sahu D/o Lila Ram Sahu, W/o Yog Ram Sahu, aged
about 25 years, R/o Village Koundker, Tashil Rajim, District
Gariyaband C.G.

---- Appellants**Versus**

1. Yadav Lal Rai S/o Buddhadev Rai aged about 40 years, R/o
Village Hankarpur, Post Sadwara, Police Station, Isuwapur,
District Chhapara (Bihar) Present Address House of Harichand
Yadav, Sukhram Nagar, Kabirdas Ward No.3, Gogan Raipur, P.S.
Gudhiyari, Raipur, District Raipur C.G.

2. Hiralal Nigam (wrongly Nagam) S/o R.L. Nigam, R/o Samta
Colony Raipur, Present Address Block No.5, Sector Akta Nagar,
New Chikuti Mandir, Ghudhiyari Raipur, District Raipur C.G.

3. Branch Manager, through Shri Ram General Insurance Company
Limited, Maruti Heights, Third Floor, Raipur, Police Station
Amanaka Raipur, District Raipur C.G.

---- Respondents

For Appellants	: Shri A.D. Kuldeep, Advocate.
For Respondent Nos. 1 & 2	: Shri Ajay Chandra, Advocate.
For Respondent No.3	: Shri Amrito Das, Advocate along with Shri K.Rohan, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****03.01.2019**

1. This is claimants' appeal seeking enhancement of compensation
awarded by the Additional Motor Accident Claims Tribunal,

Gariyaband, District Gariyaband, C.G. (for short 'the Tribunal') in claim case No. 31/2017 vide award dated 02.04.2018.

2. Facts of the case leading to filing of claim petition are that on 02.05.2017, at about 6:00 am deceased Maleshwar Sahu was going by his motorcycle from village Kanesar for the purpose of Mason Work, when he reached near village Junwani at that time respondent No.1 Diver, driving the offending vehicle Truck Trailer bearing registration No. CG04/G/4020 rashly and negligently dashed the motorcycle of deceased Maleshwar Sahu, as a result of which Maleshwar Sahu sustained multiple injuries and died on spot. At the time of accident the deceased- Maleshwar Sahu was about 20 years of age and was working as Mason and earning Rs. 12,000/- per month. In the instant case, appellants No. 1 is mother of the deceased whereas appellants No. 2 & 3 are the brother & sister of the deceased.
3. As against compensation of Rs. 18,50,000/- claimed by mother, brother and sister of deceased- Maleshwar Sahu, aged about 20 years, by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for the death of deceased in the motor accident on 02.05.2017, the Tribunal awarded a total sum of Rs. 8,16,240/- as compensation along with simple interest @ 7 percent per annum from the date of application till its actual payment to the appellants/claimants.
4. The Tribunal, on a close scrutiny of the evidence led by both the parties held that the accident had occurred due to rash and

negligent driving by its driver i.e. respondent No. 1; Maleshwar Sahu, aged about 20 years, died on account of injuries sustained by him in the said accident. Learned Tribunal, after considering the material available on record fastened the liability upon the respondent No. 3 /Insurance Company jointly and severely along with Non-applicant Nos. 1 & 2 Driver and Owner.

5. Learned counsel for the appellants submits that the Tribunal has erred in assessing the monthly income of the deceased at Rs.5,200/- whereas the deceased being a Mason was earning Rs.12,000/- per month. He further submits that Tribunal has awarded a meager amount under other heads and therefore needs to be enhanced suitably.
6. Per contra learned counsel appearing for the Insurance Company supported the award and submitted that the learned Claims Tribunal has passed the impugned award after considering all the facts and circumstances of this case and award passed by the Tribunal is just and proper.
7. I have heard learned counsel appearing for the parties and perused the impugned order including the record of Claims Tribunal.
8. So far as the income of the deceased is concerned, the claimants have pleaded that the deceased was working as a Mason and thereby earning Rs.12,000/- per month. But no evidence has been adduced by the claimants to substantiate the said plea. In such circumstances, considering the nature of job of the deceased and the minimum wages at the relevant time, his

monthly income can safely be taken as Rs.6,000/- i.e. Rs. 72,000/- per annum. However, the Tribunal was justified in applying the multiplier, granting future prospect and deducting towards personal and living expenses of the deceased.

9. 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. Thus, in view of the aforesaid decision, the claimants are held entitled for compensation in the following manner:-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.6000/-x12= Rs.72,000/-
02.	40% of above to be added towards future prospects	Rs.28,800/- Rs. 72,000/- +Rs.28,800/- = Rs. 1,00,800/-
03.	1/2th deduction towards personal and living expenses of the deceased	Rs. 1,00,800 = Rs. 50,400/-
04.	Multiplier of 18 to be applied	Rs.50,400 x 18 = Rs.9,07,200/-

05.	Towards loss of estate, and for funeral expenses (as awarded by the Tribunal)	Rs.15,000 + Rs. 15,000 = Rs. 30,000/-
06.	Towards loss of filial consortium	Rs. 30,000/-
	Total compensation	Rs.9,67,200/-

13. In the result, the appeal is allowed in part. Since, the Tribunal has already awarded a sum of Rs. 8,16,240/- after deducting the same from the amount as calculated above, the claimant is held for an additional compensation of Rs. 1,50,960/-. This additional amount shall carry interest at the rate of 7% per annum from the date of claim application till its realization. The award is modified to the above extent. However, rest of the conditions of the award shall remain intact.

14. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge