

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 841 of 2015**

1. Smt. Santoshi Banchhore W/o Late Krishna Kumar Banchhore Aged About 23 Years
2. Shruti Banchhore D/o Late Krishna Kumar Banchhore Aged About 6 Years
3. Shubham Banchhore S/o Late Krishna Kumar Banchhore Aged About 3 Years

Appellant nos. 2& 3 are minor through the legal Guardian Mother Smt. Santoshi Banchhore,

All are R/o Village Malpurikala, P.S. Nandini, Tahsil And District- Durg, Chhattisgarh.

----Appellants**Versus**

1. Dadharmendra Kumar Dhivar S/o Krishna Kumar Dhivar Aged About 27 Years R/o Village Kandarka, Post Limtara, P.S. Kumhari, District- Durg, Chhattisgarh
2. Divisional Manager, United India Insurance Company Limited, Tara Complex, G.E. Road Power House Bhilai, Tahsil And District- Durg, Chhattisgarh.

---- Respondents

For Appellants	Shri Praveen Dhurandhar, Advocate.
For Respondent No.2	Shri H.B. Agrawal, Senior Advocate with Ms Preeti Yadav, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

20/03/2019

1. The appellants/claimants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (in short "the Act") seeking enhancement of compensation awarded by the 3rd Additional Motor Accident Claims Tribunal, Durg, District Durg, C.G. in Claim Case No.118/2012 vide

award dated 04.03.2015, thereby awarded compensation of Rs.4,54,000/- with interest @ 6% per annum from the date of application till realization in favour of the claimants, fastening liability upon Insurance Company/non-applicant no.2.

2. As per claim petition, on 12.09.2012 deceased Krishna Kumar, 27 years, earning Rs.40,000/- per annum by doing agricultural work, died in the motor vehicular accident caused due to rash and negligent riding of motorcycle bearing no.CG07-LP-7725 by respondent no.1. At the time of accident, the offending vehicle was owned and driven by respondent No.1 and insured with respondent No.2. Hence, the claimants by filing claim application under Section 163(A) of the Motor Vehicles Act sought compensation of Rs.17,05,000/- with interest from the respondents under various heads.

3. The Tribunal considering the evidence of both the parties, by the impugned award granted compensation in favour of the claimants as mentioned in para 1 of this judgment. Hence, this appeal by the claimants for enhancement of compensation. However, no counter appeal has been filed by the respondents in this case.

4. Counsel for the appellants 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 no amount towards future prospect has been granted to the claimants.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

5. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that since the claim petition was filed under Section 163A of the Act where

compensation has to be awarded as per structured formula given in Second Schedule and that the Tribunal has already awarded the compensation in accordance with the Second Schedule, there is no requirement of granting any amount towards future prospect or enhancing the amount.

6. Heard learned counsel for the parties and perused the material available on record.
7. This Court finds substance in the argument made by counsel for the appellants that the Tribunal was not justified in denying future prospect to the claimants. Since the deceased was aged about 30 years, considering the nature of his job, there has to be 40% addition to the income of the deceased towards future prospect in view of decision of Hon’ble Supreme Court in *Pranay Sethi* (supra). Thus, the claimants are held entitled for compensation in the following manner:

S.I. No.	Heads	Calculation (in rupees)
1.	Income of the deceased.	Rs.36,000/- per annum
2.	40% of (i) above to be added towards future prospects.	Rs.14,400/- Rs.36,000 + Rs.14,400 = Rs.50,400/-
3.	1/3 deduction towards personal and living expenses of the deceased	Rs.16,800/- Rs.50,400 – Rs.16,800 = Rs.33,600/-
4.	Multiplier of 18 to be applied	Rs.6,04,800/-
5.	Towards loss of estate	Rs.2,500/- (as awarded by the Tribunal)
6.	Towards loss of funeral	Rs.2,000/- (as awarded by the

		Tribunal)
7.	Towards mental agony and pain to the claimants @ Rs.5,000/- each	Rs.15,000/- (as awarded by the Tribunal)
	Total Compensation	Rs.6,24,300/-

Since the Tribunal has already awarded Rs.4,54,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,70,300/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh