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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1066 of 2016

1. Smt. Pinki Puri Wd/o Late Ashok Raj, aged about 23 years, occupation: House wife
2. Pranshu S/o Late Ashok Raj, aged about 02 years, minor through legal guardian mother appellant No.1 Smt. Pinki Puri both resident of Mohalla: Badkapara, Nagar, Police Station, Tahsil & District Surajpur (C.G.)
3. Sukhlal Maravi S/o Late Ram Singh, aged about 60 years, Occupation: Agriculturist
4. Smt. Jariman W/o Sukhlal, aged about 55 years, Appellant No.3 & 4 resident of village: Ghui, Police Station: Ramkola, Tahsil: Pratappur, District: Surajpur (C.G.)

---- Appellants/Claimants

Versus

1. Akhilesh Pratap Singh S/o A.P. Singh, aged about 48 years, Occupation: Business, R/o Mohalla Babupara Jail Road Ambikapur, Police Station & Tahsil Ambikapur, District Sarguja (C.G.)
(Owner)
2. Karmu Kanwar S/o Taturam, aged about 40 years, Occupation: Vehicle driver, R/o Village Rajbahar, P.S.: Bhaiyathan, District Surajpur (C.G.)
(Driver)
3. Oriental Insurance Company, Manendragarh road, Ambedkar Chowk, Ambikapur, District Sarguja (C.G.)
(Insurer)

---- Respondents/Non-applicants

For Appellants	:	Shri Sushil Dubey, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Sandeep Shrivastava, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

04.02.2019

1. This appeal is by the Claimants/Appellants against the award dated 13.06.2016 passed by the Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G.) in M.A.C. No. 59 of 2015 awarding total compensation of Rs.8,10,000/- with simple interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
2. As per claim petition, on 22.02.2015 while deceased- Ashok Raj aged about

26 years, earning Rs.10,000/- per month as conductor and Rs.1,000/- per month from agriculture, was boarding on the offending vehicle bus bearing registration No. CG-15/AB/0285, non-applicant No.2 driver of the said vehicle drove the same in a rash and negligent manner. As a result thereof, the deceased fell off the vehicle, his left leg was run over by the vehicle and during treatment, he died on 25.02.2015 in the hospital.

3. On claim petition being filed by the Claimants under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

4. Learned counsel for the Appellants/Claimants submits as under:-

- (i) that the income of the deceased has wrongly been considered by the Tribunal as Rs.5,000/- whereas it should have been Rs.9,000/-;
- (ii) that no amount towards future prospect has been granted to the Claimants;
- (iii) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial and other consortium has been granted.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680, Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.***

5. 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 matters has rightly awarded compensation which needs no interference by this Court.

6. As regards income of the deceased, though the Claimants have pleaded that the deceased was earning Rs.10,000/- per month as conductor and Rs.1,000/-

per month from agriculture but no documentary or oral evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.6,000/- per month as per minimum wages at the relevant time of the skilled labour. Further, considering the age of the deceased i.e. 26 to 30 years, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Smt. Sarla Verma, Pranay Sethi and Magma General Insurance Co. Ltd.* (supra), the Claimants/Appellants are held entitled for compensation in the following manner:-

Sl.No.	Head	Calculation
1	Income of the deceased	Rs.6,000/- per month i.e. Rs.72,000/- per annum
2	40% towards future prospects added to income	(Rs.72,000/- + 28,800/-) Rs.1,00,800/-
3	¼ deduction towards personal expenses of the deceased	(Rs.1,00,800/- – Rs.25,200/-) Rs.75,600/-
4	After multiplier of 17 applied	Rs.75,600/- x 17 = Rs.12,85,200/-
5	For conventional heads i.e. for funeral expenses, loss of estate & loss of spousal consortium	Rs.70,000/-
6	Towards loss of parental consortium to Claimant No.2	Rs.15,000/-
7	Towards loss of filial consortium @ Rs.10,000/- to Claimants No. 3 & 4 each	Rs.20,000/-
8	For medical expenses, attendant and transportation expenses	Rs.20,000/- (as awarded by Tribunal)
	Total:	Rs.14,10,200/-

Since the Tribunal has already awarded Rs.8,10,000/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.6,00,200/-.

7. Resultantly, the appeal is allowed in part and the impugned award is modified to the extent that the Claimants/Appellants shall be entitled to a total enhanced amount of compensation of Rs.6,00,200/- with further direction of payment of interest on the enhanced amount of compensation with simple interest @ 9% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

8. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge