

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1563 of 2018**

1. Smt Kusum Bai W/o Shri Gajendra Sahu, Aged About 30 Years
2. Gajendra Sahu S/o Shri Shyam Sunder Sahu Aged About 32 Years

Both are R/o Village Sarora Ward No. 39 Thana Urla, District Raipur Chhattisgarh.

---- Appellants**Versus**

1. Moh Aslam S/o Moh. Muslim Khan R/o Village Maker Dashin Toli Thana Maker, District Chhapara (Bihar), Hall Mukam- House Of Rojrin Birgaon Thana Urla District Raipur Chhattisgarh. (Driver Of The Offending Vehicle Truck No. C.G.04/JC/56688)
2. Manoj Kumar Mishra S/o Pashupatinath Mishra R/o Ward No. 2 Near Jeevan Kirana Stores Sita Nager Gogaon District Raipur Chhattisgarh. (Owner Of The Offending Vehicle Truck No. C.G.04/JC/56688).
3. Bajaj Alliance General Insurance Company Limited Through Branch Manager Address Shiv Mohan Bhawan Vidhann Shabha Marg Pandri Raipur (Chhattisgarh). (Insurer Of The Offending Vehicle Truck No. C.G.04/JC/56688)

---- Respondents

For Appellants
For Respondent No.3

Shri A.L. Singroul, Advocate.
Shri Utsav Mahiswar, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****18/01/2019**

1. The appellants, parents of the deceased Ku. Yamini Sahu, aged 8 years, filed an application for compensation under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.22,50,000 as she died on account of

injuries suffered by her in a motor vehicular accident occurred on 08.11.2015 due to rash and negligent driving of vehicle Truck bearing registration No. CG04/JC/5668 by non-applicant No.1. Non-applicant No.2 is the owner of the offending vehicle and it was insured with non-applicant No.3 at the time of accident.

2. After considering evidence led by both the parties, the learned 4th Additional Motor Accident Claims Tribunal, Raipur, District Raipur, C.G. by the impugned award dated 28.03.2018 in claim case No.816/2015 awarded total compensation of Rs.3,45,000/- in favour of the claimants with interest @ 7.5 % pa from the date of application till realization fastening liability on non-applicants No. 1 & 2 /Driver & Owner, while exonerating the Insurance Company. However, the Tribunal considering the provisions of the Motor Vehicles Act, the various judgments of the Hon'ble Supreme Court and the facts and circumstances of the case, ordered for pay and recover in this case, thereby directed the Insurance Company to first pay the awarded amount to the claimants and then recover the same from the non-applicants No. 1& 2/ Driver & Owner.
3. Being aggrieved by the aforesaid award, the appellants have filed the instant appeal for enhancement. However, no counter appeal has been filed by the respondents.
4. Learned counsel for the appellants submits that the amount

awarded by the learned Tribunal is very much on the lower side and needs to be enhanced suitably keeping in view the decision of the Hon'ble Supreme Court in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244.***

5. On the other hand, learned counsel for the insurance company supporting the impugned award submits that the amount awarded by the Tribunal is just and proper and needs no interference by this Court.
6. Heard learned counsel for the parties and perused the material available on record.
7. The Hon'ble Supreme Court in the matter of ***Kishan Gopal and another Vs. Lala and others, (2014) 1 SCC 244,*** wherein a child aged about 10 years died in motor vehicular accident occurred on 19.7.1992 and the claimants were young parents, considering its various earlier decisions awarded Rs.5 lacs towards total loss of dependency.
8. Thus, in view of the aforesaid decision, looking to the age of the parents and that of the deceased, this Court is of the opinion that the appellants/claimants are entitled for a total sum of Rs.5 lacs as compensation. Since the Tribunal has already awarded Rs.3,45,000/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.1,55,000/- with interest @ 7.5% per annum from the date of application till realization. However, rest of the

conditions of the impugned award including the order of pay and recover shall remain intact. Ordered accordingly.

9. With the aforesaid modification in the award impugned, the appeal stands disposed of.

Sd/-
(Gautam Chourdiya)
Judge