

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 2005 of 2018**

1. Shatruhan Prasad Jatwar S/o Ajuram Jatwar, Aged About 40 Years
2. Rajni Bai Jatwar W/o Shatruhan Prasad Jatwar, Aged About 32 Years

Both are R/o Village Birgahni, Police Station Baloda, District Janjgir Champa Chhattisgarh.

----Appellants**Versus**

1. Shivshankar Shriwas S/o Jagdish Shriwas, Aged About 51 Years R/o Village Mudapar, Post Korba, Tahsil, Police Station And District Korba Chhattisgarh, District : Korba, Chhattisgarh
2. Neetu Bai Yadav W/o Mahendra Kumar Yadav, R/o Ward No. 3, Jyoti Nagar, Deepka, Korba, District Korba Chhattisgarh, District : Korba, Chhattisgarh
3. United India Insurance Company Limited, Second Floor, Gurukripa Tower, Vyapar Vihar, Behind Amber Automobiles, Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondents

For Appellant
For Respondent No.3

Shri S.K. Agrawal, Advocate.
Shri Raj Awasthi, Advocate.

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

16/04/2019

1. The matter is listed for order on I.A. No.2, application for condonation of delay in payment of process fee.
2. Since, the liability has been fastened upon non-applicant

no.3/Insurance Company jointly and severally along with non-applicants no. 1 & 2 Driver and Owner, the Insurance Company being the main contesting party and no any counter appeal filed by the other respondents, there is no need to issue notice to the other respondents. Therefore, I.A. No.2, application for condonation of delay in payment of process fee stands disposed of.

3. With the consent of counsel for both the parties, the matter is heard finally.
4. This appeal is by the claimants against the award dated 30.08.2018 passed by the 3rd Additional Motor Accident Claims Tribunal, District Janjgir-Champa, C.G. in Claim Case No.90/2017 awarding total compensation of Rs.5,00,000/- with interest @ 7% per annum from the date of application till realization, fastening liability on the Insurance Company along with non-applicants.
5. As per claim petition, on 11.07.2017 deceased Deependra @ Annu, aged about 14 years, Student, died in the motor vehicular accident caused due to rash and negligent driving of Trailer bearing registration no.CG12-S-5462 by non-applicant No.1. At the time of accident, offending vehicle was owned by non-applicant no.2 and insured with non-applicant no.3.

6. On claim petition being filed by the claimants i.e. Father and Mother of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.16,00,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 2 of this judgment.
7. Learned counsel for the appellants/claimants submits that 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.***

8. On the other hand, learned counsel for the respondent/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.
9. Heard learned counsel for the parties and perused the material available on record.
10. The Tribunal considering the age of the deceased as 14 years which was not challenged by the non-applicants, the decision of the Hon'ble Supreme Court in the matter of

Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121 and various other decisions of the Hon'ble Supreme Court and the judgments passed by this Court treating the notional income of the deceased as Rs.30,000/-, after applying the multiplier of 15 assessed the total loss of dependency as Rs.4,50,000/-. Further, in view of decision in the matter of **Lata Wadhwa Vs State of Bihar (2001) 8 SCC 197**, the Tribunal awarded Rs.50,000/- towards loss of love and affection and for funeral. Thus, the Tribunal awarded a total sum of Rs.5 Lacs with interest as mentioned above. This Court notices no illegality or infirmity in the findings recorded by the Tribunal while granting of compensation to the claimants.

11. In the result, the appeal being without any substance is liable to be dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh