

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 878 of 2018**

1. Smt. Shyamwati W/o Santosh Kumar @ Santosh Kumar Andil, Aged About 25 Years R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh. ....Claimants.
2. Rupesh S/o Santosh Kumar @ Santosh Kumar Andil, Aged About 5 Years Minor Through Legal Guardian Mother Smt. Shyamwati, Widow of Santosh Kumar R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh.
3. Ranbir S/o Santosh Kumar @ Santosh Kumar Andil, Aged About 2 Years Minor Through Legal Guardian Mother Smt. Shyamwati, Widow of Santosh Kumar R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh.
4. Biran Singh S/o Late Jaljeet Singh, Aged About 46 Years R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh.
5. Smt. Dhankunwar W/o Biran Singh, Aged About 44 Years R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh.
6. Ashok Kumar S/o Biran Singh, Aged About 22 Years R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh.
7. Kumari Rambati D/o Biran Singh, Aged About 19 Years R/o Village Tanera, Tahsil Pondi Uproda, District- Korba, Chhattisgarh.

**---- Appellants****Versus**

1. Faruddin Ansari S/o Karuddin Ansari, R/o House No. 6/47, Belbaththa, Ambikapur, Road Katghora, Tahsil Katghora, District-

Korba, Chhattisgarh. ....Owner.

2. The New India Insurance Company Limited, Through Branch Manager, Officer at Rajeev Complex Bilaspur, Locak Branch Office, Sada Complex, T. P. Nagar Korba, Tahsil and District- Korba, Chhattisgarh. ....Insurer

---- Respondents

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| For Appellants      | :- | Mr. Basant Kaiwartya, Advocate. |
| For Respondent No.2 | :- | Mr. N.K. Malviya, Advocate.     |

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**Hon'ble Shri Justice Sanjay S. Agrawal**  
**Order On Board**

**31/01/2020**

1. This Miscellaneous Appeal has been preferred by the Claimants under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act of 1988') questioning the legality and propriety of the award dated 28.02.2018 passed by the Additional Motor Accident Claims Tribunal, Katghora, (for short 'the Claims Tribunal') in Motor Accident Claim Case No. 29/2017 whereby the Claims Tribunal, while allowing the claim in part, has awarded a total amount of compensation to the tune of Rs.15,49,000/- (Rupees Fifteen Lakhs Forty Nine Thousand only) with 7% interest per annum from the date of filing of the claim petition till its realisation while fastening the liability upon the Insurance Company. The parties to this appeal shall be referred hereinafter as per their description in the Claims Tribunal.
2. Briefly stated, the facts of the case are that on 06.02.2017 deceased-Santosh Kumar was going by his motor cycle to the mines at village Rani Atari and as soon as he reached near the

Khadhanala Matinbai, he was dashed vehemently by the offending vehicle 'Trailer' bearing its Registration No. CG-12-S-6011, which was owned by Non-Applicant No.1/Faruddin Ansari, and was insured with Non-Applicant No.2/The New India Insurance Company. At the relevant time, the vehicle in question was being driven rashly and negligently by its driver, namely, Anand Singh, as a result of which, he (Anand Singh) expired, while predecessor in interest of the claimants namely Santosh Kumar injured badly and expired during the course of his treatment at CHC Hospital of village Pondi Uproda.

3. On account of the aforesaid accident, the claimants, being legal representatives of the deceased, instituted a claim petition under Section 166 of the Act of 1988, claiming total amount of compensation to the tune of Rs.72,82,000/- (Rupees Seventy Two Lakhs Eighty Two Thousand only) under various heads by alleging *inter-alia* that deceased-Santosh Kumar, a 28 years old, was a transporter and used to earn Rs.12,000/- (Rupees Twelve Thousand only) per month.
4. The Non-Applicants have contested the aforesaid claim and, the Claims Tribunal, after considering the evidence led by the Claimants, arrived at a conclusion that the alleged accident occurred on 06.02.2017 due to the rash and negligent driving by the driver of the offending vehicle 'trailer' resulting into the sad demise of him (Anand Singh) as well as, the deceased-Santosh Kumar. It held further that the vehicle in question was not being used in violation of the Insurance policy and observed further that

the monthly income of the deceased was Rs.5,000/- and by applying the multiplier of 17 after deducting 1/5<sup>th</sup> of it, awarded total amount of compensation as mentioned herein above while fastening the liability upon the Insurance Company.

5. Being aggrieved, the Claimants have preferred this appeal. Shri Basant Kaiwartya, learned counsel appearing for the Appellants submits that while passing the award impugned, the Claims Tribunal ought to have awarded just and proper compensation payable to the Claimants. However, the meagre amount of compensation has been awarded without considering the evidence placed on record on its true and proper perspective.
6. On the other hand, Mr. N.K. Malviya, learned counsel appearing for Respondent No. 2 has supported the award impugned.
7. I have heard learned counsel for the parties and perused the entire record carefully.
8. From perusal of the record, it appears that while considering the monthly income of the deceased as Rs.5,000/-, yearly Rs.60,000/- and by providing 50% towards future prospects of the income of the deceased and by deducting 1/5<sup>th</sup> of it, the Tribunal has applied the multiplier of 17 for awarding a sum of Rs.12,24,000/-. That apart, a sum of Rs.3,25,000/- has been awarded towards conventional heads and thus total amount of compensation to the tune of Rs.15,49,000/- has been awarded with the interest as mentioned herein above.
9. Considering the facts and circumstances of the case and in

absence of any documentary evidence showing the monthly income of the deceased at Rs.12,000/-, as claimed, the Tribunal has not committed any illegality in assessing the monthly income of the deceased as Rs.5,000/-. It appears further that while determining the income of the deceased, the future prospects of his income was not only taken into consideration, but the sufficient amount of Rs.3,25,00/- has been awarded towards conventional heads as well. In such circumstances, it cannot be said that the meagre amount of compensation has been awarded by the Tribunal, as alleged herein by the Appellants/Claimants.

10. Consequently, the appeal being devoid of merits is accordingly, dismissed. No order as to costs.

Sd/-  
**(Sanjay S. Agrawal)**  
Judge

Ankit