

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc Appeal (C) No. 691 of 2014**

(Arising out of Award dated 07.04.2014 passed by the learned Motor Accident Claims Tribunal, Bastar at Place Jagdalpur in Claim Case No.08/2013)

1. Khemeshwar Panigrahi S/o Sant Prasad Panigrahi, aged about 38 years R/o Kumhali, Tah. and P.S. Lohandiguda, Distt. Bastar Chhattisgarh
2. Swarajratn Panigrahi S/o Khemeshwar Panigrahi Aged About 15 Years Minor, Thru- Father Khemeshwar Panigrahi, R/o Kumhali, Tah. And P.S. Lohandiguda, District : Bastar(Jagdalpur), Chhattisgarh
3. Swatantraratn Panigrahi S/o Khemeshwar Panigrahi Aged About 17 Years Minor, Thru- Father Khemeshwar Panigrahi, R/o Kumhali, Tah. And P.S. Lohandiguda, District : Bastar(Jagdalpur), Chhattisgarh

Appellants**Versus**

1. Pradeep Kumar Kashyap S/o Sohan Singh Kashyap Aged About 32 Years R/o Mongrapal, Chowki- Bastar, Tah. Jagdalpur, Distt. Bastar Chhattisgarh
2. Jaivendra Singh S/o Ramsagar Singh Aged About 19 Years R/o Gayatri Nagar, Dharampura, Jagdalpur, District : Bastar(Jagdalpur), Chhattisgarh
3. Royal Sunderam Alliance Insu.Co.Ltd., 2nd Floor 242/243 Ghasidas Plaza, Aamapara Chowk, Raipur, District : Raipur, Chhattisgarh Pin Code No. 492010

Respondents

For Appellants/Claimants	:	Ms. Rajkumari Yadav, Advocate
For Respondent No.1/Driver	:	None
For Respondent No.2/Owner	:	None
For Respondent No.3/Insurer	:	Mr. Anupam Dubey, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, P. R. Ramachandra Menon, Chief Justice

15.09.2020

1. Claimants are the Appellants. Grievance is against the inadequate compensation awarded by the Motor Accident Claims Tribunal, Bastar at Jagdalpur (for short, 'the Tribunal') in respect of the loss of life of the

deceased in a road traffic accident, who was the wife of the Appellant No.1 and mother of the Appellants No.2 and 3.

2. On the ill-fated day i.e., on 23.07.2011, the deceased Smt. Leelavati Panigrahi was proceeding as a pillion rider on the two wheeler bearing registration No.C.G.-17-K.B./2376, ridden by her husband (1st Appellant). When they reached the place of occurrence, the offending Truck bearing No. C.G.-17-H/1570, driven by the 1st Respondent, owned by the 2nd Respondent and insured by the 3rd Respondent, knocked them down, causing fatal injuries to the pillion rider, who succumbed to the same. This was sought to be compensated by filing a claim petition before the Tribunal.
3. It was contended that the accident was solely because of the negligence on the part of the 1st Respondent / driver of the offending Truck; that the deceased was permanently employed as a 'Shiksha Karmi Grade-III' with a monthly salary of Rs.7,961/- and it was accordingly, that the compensation was claimed under different heads. The Tribunal, in view of the law declared by the Apex Court in ***Sarla Verma Vs. Delhi Transportation Corporation*** reported in (2009) 6 SCC 121, to the extent as affirmed by the subsequent Constitution Bench of the Apex Court in ***National Insurance Company Limited vs Pranay Sethi & Others*** reported in (2017) 16 SCC 680, held that since the deceased was having a permanent employment and was of less than 40 years, future prospects had to be added to an extent of 50% of the monthly salary for working out the compensation. Based on the age of the deceased as 37 years,

appropriate multiplier was fixed as '15'. After deducting $1/3^{\text{rd}}$ towards the personal expenses, the balance $2/3^{\text{rd}}$ was reckoned as monthly contribution to the family. It was accordingly, that the loss of life was compensated to an extent of Rs.7,16,242/-. Awarding a sum of Rs.20,000/- towards the love and affection and Rs.10,000/- towards loss of consortium, besides Rs.5,000/- towards the funeral expenses, the total compensation was fixed as Rs.7,51,242/- (rounded to Rs.7,51,000/-), which was directed to be satisfied with interest @ 6% per annum from the date of the filing of the claim petition till its satisfaction. Since existence of valid insurance policy was admitted, the liability was shifted to the shoulders of the 3^{rd} Respondent /Insurer; quantum of which is sought to be enhanced in this appeal preferred by the Claimants.

4. Ms. Rajkumari Yadav, the learned counsel for the Appellants submits that the multiplicand and multiplier have been fixed by the Tribunal correctly and it is in conformity with the law declared by the Apex Court in the precedents, as mentioned above. But, as per the very same judgment, much higher amounts have to be awarded under the conventional heads, where the Tribunal has gone wrong and hence the grievance.
5. It is to be noted that the actual amounts payable, as per the above judgments rendered by the Apex Court, towards the loss of consortium is Rs.40,000/-, Rs.15,000/- towards the funeral expenses and Rs.15,000/- towards the loss of estate. The meaning of the term 'consortium' has been explained by the Apex Court in ***Magma General Insurance Company Limited vs Nanu Ram Alias Chuhru Ram & Others*** reported

in **(2018) 18 SCC 130**, holding that the 'consortium' is of 'three' different types; **Parental consortium** (payable to children because of the death of parents); **Spousal consortium** (payable to the spouse because of the death of the partner) and **Filial consortium** (payable to the parents because of the death of children).

6. In view of the above, we find that, since the Tribunal has awarded only a sum of Rs.10,000/- towards loss of consortium, a balance sum of **Rs.30,000/-** is payable under this head. In view of the law declared by the Apex Court in ***Magma General Insurance Company Limited*** (supra), the children are entitled to get Rs.40,000/- towards "Parental Consortium". Since the Tribunal as awarded only a sum of Rs.20,000/- towards the loss of love and affection, we award the deficit sum of **Rs.20,000/-** as the 'Parental Consortium' to the Appellants 2 and 3 (children of the deceased). Since the Tribunal has awarded only a sum of Rs.5,000/- towards the 'funeral expenses', the Appellants are entitled to get a further sum of **Rs.10,000/-** under this head. No amount has been awarded by the Tribunal towards the 'loss of estate'. In view of the law declared by the Apex Court as mentioned above, the Appellants are entitled to get a sum of **Rs.15,000/-** under this head as well. Thus, the total additional total compensation comes to **Rs.30,000 + 20,000 + 10,000 + 20,000 = 80,000/- (Rs. Eighty thousand only)**. It is awarded accordingly, which shall carry interest @ 7% per annum from the date of the application, till satisfaction.

7. Since the liability has been fastened upon the 3rd Respondent/Insurer based on the valid insurance policy available on the date of accident and since the finding of the Tribunal in this regard has not been subjected to challenge from the part of the 3rd Respondent/Insurer, we direct the 3rd Respondent/Insurer to satisfy the above additional compensation with interest as aforesaid before the Tribunal, with notice to the Appellants/ Claimants, as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment.

The appeal stands allowed to the said extent.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge