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HIGH COURT OF CHHATTISGARH, BILASPUR

M.A. (C) No. 647 of 2013

{Arising out of Award dated 18.04.2013 passed in Claim Case No. 15 of 2011 by the Additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur, Chhattisgarh}

Smt. Ramin Bai W/o Punni Lal Dhruv, aged about 29 years, R/o Tharkpur, Tahsil Lormi, District Bilaspur, Chhattisgarh.

---- Appellant

Versus

1. Shekh Kamruddin S/o Shekh Safi, aged about 40 years, Vehicle Driver Tata Maijic No. CG 10 T 1248, Resident of village Kathakoni, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
2. Suresh Kumar Kashyap S/o Bedu Prasad Kashyap, aged about 26 years, Vehicle Owner Tata Maijik No. CG 10 T 1248, Resident of village Vicharpur kapa, Thana and Tahsil Takhatpur, Chhattisgarh.
3. ICICI General Insurance Company Limited, Branch Office Lalganga Complex, Shop No. 303-304, GE Road, Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri A.L.Singroul, Advocate.
For Respondents No. 1 and 2	:	None
For Respondent No. 3	:	Shri Sourabh Sharma, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, Chief Justice

12.06.2020

1. Inadequacy of the compensation awarded by the Additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur (*for short, 'the Tribunal'*) in connection with death of a minor girl aged about 11 years, is the issue projected in this appeal filed by the Claimant-Mother.

2. On 15.07.2010, the deceased girl namely Ku. Neha was travelling as a pillion rider on a motor-cycle when she was knocked down by Tata

Magic Vehicle bearing Registration No. CG-10-T-1248, driven by the 1st Respondent, owned by the 2nd Respondent and insured by the 3rd Respondent, causing fatal injuries, leading to her death. This was sought to be compensated by filing a claim petition by the Appellant-mother before the Tribunal. The contest was mainly with regard to the quantum and negligence. Existence of a valid insurance policy in respect to the offending vehicle was admitted. After considering the pleadings and evidence on record, the Tribunal arrived at a finding that the accident was solely because of the negligence on the part of the 1st Respondent i.e. the driver of the offending vehicle.

3. With regard to the quantum, the learned Tribunal apparently did not use any 'multiplier method' but for awarding a lump-sum compensation of Rs.75,000/- towards 'loss of income'. A further sum of Rs. 10,000/- was awarded towards the loss of love and affection and a sum of Rs. 5000/- towards funeral expenses, thus, awarding a total compensation of Rs.90,000/- which was directed to be satisfied with interest at the rate of 6% per annum. Since the insurance policy was admitted, the amount due was ordered to be satisfied by the 3rd Respondent-Insurance Company.

4. Heard Shri A.L.Singroul, the learned counsel appearing for the Appellant/Claimant and Shri Sourabh Sharma, the learned counsel appearing for the 3rd Respondent-Insurance Company.

5. There is no much dispute with regard to the factual aspects. What shall be the adequate compensation in respect of the deceased child aged 11 years is the only point. It is brought to the notice of this Court that under similar circumstances, the Apex Court, as per the judgment in ***Kishan Gopal & Another v. Lala & Others***; {(2014) 1 SCC 244}, has held that Rs. 30,000/- could be taken as the notional annual income and adopting the multiplier

of '15', the dependency compensation was worked at Rs. 4.5 Lacs awarding a further sum of Rs.50,000/- under the conventional heads towards the loss of love and affections, funeral expenses etc. The total compensation was fixed at Rs. 5 Lacs, which was directed to be satisfied with interest as specified. The Apex Court also placed reliance on the verdict passed in ***Kerala SRTC v. Susamma Thomas*** {(1994) 2 SCC 176), in ***Lata Wadhwa & Others v. State of Bihar & Others***; {(2001) 8 SCC 197} and **Smt. Sarla Verma & Others v. Delhi Transport Corporation & Another**; {(2009) 6 SCC 161) for formulating the view and to reach the conclusion for working out the compensation in respect of the death of a minor child.

6. It is also brought to the notice of the learned counsel for the Appellant that the above verdict passed by the Apex Court has been followed in several judgments rendered by this Court, including the one reported in ***Smt. Safari Bai Suryavanshi & Another v. Ajay Kumar Patel & Others***; {2015 2 CGLJ 399} and the judgment dated 17.06.2016 ***in Balram & Another v. Gopeswar & Another*** {M.A.(C) No. 853 of 2000}.

7. We find that, in ***Kishan Gopal*** (supra), clear evidence was adduced to the effect that, the deceased boy, though of only 10 years, was assisting his father in agricultural operations, which may be the reason for fixing the notional income at Rs. 30,000/-, though the accident had occurred years ago, on 19.07.1992. However, it is to be noted that, no deduction has been made towards the probable 'personal expenses' from the notional income. The notional income fixed even in the year 1994 as per the II Schedule to the Motor Vehicles Act, 1988, for working out the compensation in a Section 163-A claim, was only Rs. 15,000/- per annum. This was amended and re-fixed as "Five Lacs" as per the amendment dated 22.05.2018. This being the position, ***Kishan Gopal*** (supra) has to be

understood as a verdict passed with reference to the facts involved in that particular case.

8. We have however come across various other decisions including in ***Master Mallikarjun v. Divisional Manager, National Insurance Company Limited & Others****;* {(2014) 14 SCC 396} awarding compensation involving permanent disability to the minor children, fixing different slabs with reference to the extent of disability; holding that up to 10%, it shall be Rs. 1 Lac, between 10% to 30% - it shall be Rs. 3 Lacs; between 30% to 60% - it shall be Rs. 4 Lacs; between 60% to 90% - it shall be Rs. 5 Lacs and above 90% - it shall be 6 Lacs. There are other judgments also, granting reasonable compensation for death in the case of minor children.

9. After hearing both the sides and after considering the particular facts and circumstances, including that the accident had occurred on 15.07.2010, by which time the money value has undergone substantial change, the quantum of compensation to be paid in respect of the death of the minor child adopting the multiplicand as Rs. 30,000/- and multiplier of '15' will not be on the higher side. Since the total compensation payable also would include the heads - 'loss of filial consortium' / 'loss of love and affection', 'funeral expenses', 'loss of estate' *etc*. to the extent as provided by the Apex Court in ***National Insurance Co. Ltd. v. Pranay Sethi & Others*** {(2017) 16 SCC 680} and ***Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram*** {(2018) 18 SCC 130}, we are of the view that the total compensation can be fixed as 'Rs. 5 Lacs' (Rupees Five Lacs Only). It is awarded accordingly.

10. The Tribunal has awarded only Rs. 90,000/- as compensation and hence, the balance payable will be **Rs. 4,10,000/-**. The said amount shall be deposited before the Tribunal with interest at the rate of 7% per annum from

the date of filing of the claim petition, till satisfaction. Since the policy is admitted, we direct the 3rd Respondent Insurance Company to have it satisfied as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment.

The appeal stands allowed to the above extent.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE

Amit