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HIGH COURT OF CHHATTISGARH, BILASPUR

M.A.(C) No. 241 of 2015

- The Oriental Insurance Co. Ltd. Through Its Divisional Manager, Divisinal Office, Ist Floor, Rama Trade Centre, Near Bus Stand, Bilaspur, Civil And Revenue Distt.- Bilaspur, C.G. PIN 495001

---- Appellant

Versus

1. Umesh Ram S/o Lodhi Ram Aged About 47 Years R/o Village-Chongribahar, Tahsil Kansabel, Distt.- Jashpur, C.G.
2. Manpyari Bai W/o Umesh Ram Aged About 42 Years R/o Village Chongribahar, Tahsil Kansabel, Distt.- Jashpur, C.G.
3. Ajeet Singh S/o Naka Singh Bedi Aged About 38 Years R/o Village-Chandmari, Raigarh, Distt.- Raigarh, C.G.
4. Gulabchand Patel S/o Baistem Patel Aged About 48 Years R/o Village Budhuda, P.S. Sariya, Distt.- Raigarh, C.G.

---- Respondents

For Appellant:	Shri R. N. Pusty, Advocate.
For Respondents:	None, though served.

Single Bench:Hon'ble Shri Sanjay S. Agrawal, J

Award On Board

28.01.2020

1. This Miscellaneous Appeal has been preferred by Non-applicant No.3- the Oriental Insurance Company Limited under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act, 1988') questioning the legality and validity of the award dated 13.11.2014 passed by the Motor Accident Claims Tribunal, Jashpur (C.G.) in Motor Accident Claim Case No. 12/2013, by which, the learned Claims Tribunal while allowing the claim in part has fastened the liability upon the Insurance Company. The parties to this Appeal shall be referred hereinafter as per their description in the Court below.

2. Briefly stated the facts of the case are that on 05.11.2012 at about 12:30 p.m., deceased Rohit @ Mitthu was going as a pillion rider along with his friend Abhishek Prajapati by his motor cycle from village Chongribahar to village Futhamuda Lailunga and as soon as they reached near the village Gosaideeh, they were dashed vehemently from opposite side by the offending vehicle “Bus” bearing its registration number CG-13-Q-0455, which was owned by Non-applicant No.2 Gulabchand Patel and insured with Non-applicant No.3, the Oriental Insurance Company Ltd. At the relevant time, the vehicle in question was being driven rashly and negligently by its driver, namely, Ajeet Singh (Non-applicant No.1). As a result of which, the alleged accident occurred, where the deceased was injured badly and expired on the way to the hospital. A criminal case was, therefore, registered against the driver of the offending vehicle under Sections 279, 337, 304-A of IPC in connection with the Crime No.221/12.

3. On account of the aforesaid accident, the Claimants being parents have instituted the claim petition enumerated under Section 166 of the Act, 1988 claiming total amount of compensation to the tune of Rs.32,58,000/- alleging *inter alia* that the deceased was an electrician by profession and used to earn Rs.6,000/- per month.

4. The aforesaid claim was contested by the Non-applicants and the Claims Tribunal, after considering the evidence led by the parties, arrived at a conclusion that the alleged accident occurred on 05.11.2012 due to rash and negligent driving by the driver of the offending vehicle “Bus”, resulting into the sad demise of deceased Rohit @ Mitthu and by considering the annual income of the deceased to the tune of Rs.59,000/- and by deducting half of his income towards his personal and living

expenses and by applying the multiplier of 14, awarded a total amount of compensation to the tune of Rs.5,48,000/- with 9% interest per annum from the date of filing of the claim petition till its realization.

5. Being aggrieved, Non-applicant No.3, the insurer has preferred this appeal. Shri R. N. Pusty, learned counsel appearing for the Appellant submits that the Claims Tribunal, while passing the award impugned, has committed an illegality in awarding a sum of Rs.1,35,000/- towards conventional heads which is extremely on higher side. The amount of compensation is, therefore, liable to be reduced.

6. I have heard learned Counsel for the Appellant and perused the entire record carefully.

7. From perusal of the record, it appears that the alleged accident occurred on 05.11.2012 due to rash and negligent driving by the driver of the offending vehicle “Bus”, resulting into the sad demise of deceased Rohit @ Mitthu, who was 19 years old at the relevant time and was an electrician by profession. While assessing the annual income of the deceased to the tune of Rs.59,000/- and that by deducting half of it towards his personal and living expenses, and by applying the multiplier of 14, the Tribunal has awarded total amount of compensation to the tune of Rs.5,48,000/- under various heads with 9% interest per annum as aforesaid.

8. It is true that a sum of Rs.1,35,000/- has been awarded by the Tribunal towards conventional heads at paragraph 16 of its award, where a sum of Rs.75,000/- has been awarded towards pain and suffering, while Rs.50,000/- towards loss of estate, which, however, appears to be on higher side. But, looking to the facts and circumstances of the case and

particularly, where the Claims Tribunal has wrongly applied the multiplier of 14 instead of 18 while considering the age of the parents of the deceased and considering further that a meagre amount of Rs.10,000/- has been awarded towards funeral expenses even without considering the loss of filial consortium to the parents, I am not inclined to interfere with the award impugned, as passed by the Claims Tribunal under these conventional heads in the light of the principles laid down in the matter of ***National Insurance Co. Ltd.*** vs. ***Pranay Sethi*** and ***Magma General Insurance Company Limited*** *vs.* ***Nanu Ram*** ***alias*** ***Chuhru Ram and others*** reported respectively in **(2017) 16 SCC 680** and **(2018)18 SCC 130**.

9. Consequently, I do not find any substance in this appeal. The appeal being devoid of merits is, accordingly, dismissed. No order as to costs.

Sd/-

(Sanjay S. Agrawal)
JUDGE

Nikita