

HIGH COURT OF CHHATTISGARH, BILASPUR**M.A(C) No.73 of 2018****Reserved on 15.09.2021****Pronounced on 20.09.2021**

1. Smt. Puniya Bai Maravi W/o Late Shri Sumendra @ Ramesh Singh Marravi, Aged About 45 Years, R/o Village Changori, P.S. And Tah. Kota Distt. Bilaspur Chhattisgarh
2. Sandeep Maravi, S/o Late Shri Sumendra @ Ramesh Singh Maravi, Aged About 16 Years, Minor Through Natural Guardian For Appellant No. 1 Smt. Puniya Bai R/o Village Changori, P.S. And Tah. Kota, Distt. Bilaspur Chhattisgarh
3. Pradeep Maravi, S/o Late Shri Sumendra @ Ramesh Singh Maravi, Aged About 14 Years Minor Through Natural Guardian For Appellant No. 1 Smt. Puniya Bai, R/o Village Changori, P.S. And Tah. Kota, Distt. Bilaspur Chhattisgarh
4. Virendra Kumar Maravi, S/o Late Shri Sumendra @ Ramesh Singh Maravi, Aged About 10 Years Minor Through Natural Guardian For Appellant No. 1 Smt. Puniya Bai R/o Village Changori, P.S. And Tah. Kota, Distt. Bilaspur Chhattisgarh
5. Smt. Budhiyarini Bai, W/o Late Shri Santram Maravi, Aged About 70 Years R/o Village Changori, P.S. And Tah. Kota, Distt. Bilaspur Chhattisgarh

---- Appellants/Claimants**Versus**

1. Bhavani Singh, S/o Dara Singh, Aged About 28 Years, R/o Village Godkhamhi, P.S. Lormi, Distt. Mungeli Chhattisgarh
2. Bhajan Singh, S/o Ishwar Singh, R/o Hitesh Bus Service, Bus Stand, Bilaspur, Distt. Bilaspur Chhattisgarh
3. The New India Insurance Co. Ltd., through Branch Manager, New Indian Insurance Co.Ltd. Rama Trade Centre, 2nd Floor, In Front Of Rajeev Plaza, Old Bus Stand, Bilaspur, Tah. And Distt. Bilaspur Chhattisgarh

----Respondents/Non-Applicants

For Appellant:	Shri Keshav Dewangan, Advocate.
For Respondent No.1:	None, though served.
For Respondent No.2:	Shri Shailesh Tiwari, Advocate.
For Respondent No.3:	Shri Qamrul Aziz, Advocate.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J
C.A.V. Award

1. This Appeal has been preferred by the Claimants under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') seeking

enhancement of the award under Appeal dated 17.08.2017 passed by Motor Accident Claims Tribunal, Mungeli (for short 'the Claims Tribunal') in Claim Case No.11/2017, whereby the Tribunal has awarded a total amount of compensation to the tune of Rs.7,22,200/- with 9% interest per annum from the date of filing of the claim Petition till its realization. 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 18.08.2016 at 3.15 p.m, deceased Sumendra @ Ramesh Singh Maravi was going along with his friend namely Dujram Dhruv from Litiya to village Changori and at the relevant time, they were dashed vehemently from their back side by the offending vehicle "truck" bearing its Registration No.CG-10 A-5978 owned by Non-Applicant No.2-Bhajan Singh and insured with Non-Applicant No.3-New India Insurance Company Limited owing to rash and negligent driving by its driver Non-Applicant No.1-Bhavani Singh. As a result of the alleged accident, deceased Sumendra @ Ramesh Singh Maravi died on the spot while his friend got injured badly, which led to the registration of a criminal case against the driver of it at P.S Kota in connection with Crime No.183/2016 under Sections 279, 337 and 304-A IPC.

3. The Claimants being the legal representatives of the deceased, instituted a Petition under Section 166 of the Act of 1988 by submitting, *inter alia*, that the deceased, a 35 year old, was a mason (*rajmistri*) by profession and was involved in agricultural business as well and used to earn Rs.4 lacs and thus, a total amount of compensation of Rs.52,25,000/- has been claimed under various heads.

4. The Non-Applicants have contested the claim and the Tribunal, after considering the evidence led by the parties, has arrived at a conclusion that the deceased Sumendra @ Ramesh Singh Maravi died on the spot owing to rash and negligent driving of its driver and that by considering the income of him to the tune of Rs.3,800/-, the Tribunal has awarded a total amount of compensation as mentioned hereinabove.

5. Shri Dewangan, learned counsel appearing for the Appellants/Claimants submits that the Tribunal has committed an illegality in assessing the income of the deceased only to the tune of Rs.3,800/- per month and thereby erred in awarding a meager amount of compensation payable to the Claimants even without considering the future prospects of his income. It is contended further that the Tribunal has erred in not awarding the proper amount of compensation towards conventional heads as well. In support, he placed his reliance upon the decision rendered by the Supreme Court in the matters of National Insurance Company Limited vs. Pranay Sethi And Others and Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and Others reported in **(2017) 16 Supreme Court Cases 680** and **(2018) 18 Supreme Court Cases 130** respectively.

6. On the other hand, learned counsel for the Respondents/Non-Applicants No. 2 and 3 have supported the award impugned as passed by the Claims Tribunal.

7. I have heard learned Counsel for the parties and perused the entire record carefully.

8. From perusal of the record, it appears that the amount of compensation as determined by the Tribunal while assessing the monthly

income of the deceased to the tune of Rs.3,800/- even without considering the future prospects of his income is unjustified and deserves to be modified.

9. According to the Claimants, the deceased was a mason (*rajmistri*) and was also involved in agricultural work and used to earn more than Rs.4 lacs annually. However, in absence of any cogent and reliable evidence, it cannot be held to be as such. But the income of the deceased, who was found to be *rajmistri* as per the unrebutted statement of the Claimants could, therefore, be considered as that of a skilled labour prevailing at the relevant time as per the notification issued by the prescribed authority under the Minimum Wages Act, 1948. As the alleged accident occurred on 18.08.2016, it would therefore, be appropriate to consider his annual income to the tune of Rs.6,549/- rounded off to Rs.6,500/-, yearly to Rs.78,000/- prevailing at the relevant time as per the notification issued by the prescribed authority under the Minimum Wages Act, 1948. Since the deceased was found to be 35 years old, therefore, while determining his actual income, an addition of 40% of it i.e. Rs.31,200/- towards future prospects of his income is to be made in the light of the principles laid down by the constitutional Bench of the Supreme Court in the matter of National Insurance Company Limited vs. Pranay Sethi And Others (*supra*). It would thus come to Rs.1,09,200/- (Rs.78,000/- + Rs.31,200/-) and that by deducting 1/4th of it, i.e. Rs.27,300/- towards his personal and living expenses, yearly dependency would come to Rs.81,900/- (Rs.1,09,200/- - Rs.27,300/-). By applying the multiplier 16, looking to the age of the deceased, the total dependency would thus come to Rs.13,10,400/- (Rs.81,900/- x 16).

10. Besides the widow, children and the mother of the deceased are entitled to be awarded loss of consortium under the heads of 'spousal,

parental and filial consortium' respectively as held by the Supreme Court in the matter of Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others (supra) at the rate, as held in the said matter of Pranay Sethi (supra). Consequently, in addition, the Claimants are entitled to the following amounts towards conventional heads as under:-

	Mode of Compensation	Amount (in Rs.)
i.	For loss of consortium to wife	40,000/-
ii.	For loss of filial consortium to mother	40,000/-
iii.	For loss of parental consortium to three Children @ Rs.40,000/- each	1,20,000/-
iv.	For funeral expenses	15,000/-
v.	For loss of estate	15,000/-
	Total	2,30,000/-

11. Accordingly, the Claimants would be entitled to a total sum of Rs.15,40,400/- (Rs.13,10,400/- + Rs.2,30,000/-) and the enhanced amount of compensation, i.e., Rs.8,18,200/- (Rs.15,40,400/- - Rs.7,22,200/-) shall carry interest @ 6% per annum from the date of filing of this appeal, i.e. 10.01.2018 till the date of actual payment.

12. In view of above, the Appeal is accordingly allowed in part to the extent indicated herein above. Rest of the observations as made by the Tribunal shall remain intact. No order as to costs.

Sd/-

(Sanjay S. Agrawal)
JUDGE