

HIGH COURT OF CHHATTISGARH, BILASPURMCC No. 256 of 2021

1. Smt. Laxmi Bai W/o Late Vijay Kuamr Kesharwani Aged About 40 Years,
 2. Ku. Heena D/o Late Vijay Kumar Kesharwani Aged About 18 Years,
 3. Ku. Anju D/o Late Vijay Kumar Kesharwani Aged About 15 Years,
 4. Ku. Nisha D/o Late Vijay Kumar Kesharwani Aged About 13 Years,
 5. Ku. Deepali D/o Late Vijay Kumar Kesharwani Aged About 11 Years,
 6. Anand S/o Late Vijay Kumar Kesharwani Aged About 8 Years,
 7. Ramadhar S/o Late Rambharosh Kesharwani Aged About 70 Years,
- Applicants No.3 to 6 are minor through Natural Guardian Mother Smt. Laxmi Bai

All are R/o Village- Shardha, Thana And Tahsil- Lormi, District : Bilaspur, Chhattisgarh

---- Applicants

Versus

1. Bhushan Singh @ Tinku S/o Rajendra Singh Thakur Aged About 21 Years (Driver Of The Offending Vehicle Motor Cycle No. C.G. 04/D.H./ 4712)
2. Ravi Singh Thakur S/o Rajendra Singh Thakur Aged About 28 Years, Respondent No. 1 and 2 are R/o Rani Gaon, Thana And Tehsil- Lormi, District- Bilaspur, Chhattisgarh. (Owner Of The Offending Vehicle Motor Cycle No. C.G.04/D.H./4712)
3. Iffco Tokio General Insurance Company Limited Branch Office, 3rd Floor (Tal) Shop No. 345,347 Lal Ganga Shopping Complex G.E. Road, Raipur, District- Raipur, Chhattisgarh. (Insurer Of The Offending Vehicle Motor Cycle No. C.G. 04/D.H./ 4712)

--- Respondents

For Applicants : Mr. A.L. Singroul, Advocate

For Respondent No. 3 : Mr. P. R. Patankar, Advocate

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board by Manindra Mohan Shrivastava, J.

09.06.2021

1. As in the present case, the liability for payment of compensation has been given fastened on the insurance company and not on the driver and owner at the first instance, we do not consider it necessary to issue the

notice to the driver and the owner before passing final order in the present application.

2. Learned counsel for the applicants made a short and pointed submission that while awarding compensation for loss of parental consortium of Rs.40,000/-, the order passed by this Court does not clarify this amount is payable to each of the children (Respondent Nos. 2 to 7). He submits that the principles of law on which the compensation for loss of parental consortium was awarded by this Court to the widow and the children has been laid down by the Supreme Court in the case of **National Insurance Company Limited V. Pranay Sethi & Others**¹ and **Magma General Insurance Company Limited V. Nanu Ram Alias Chuhru Ram & Others**². He would submit that as the object and purpose of awarding such compensation is to compensate each of the family members whether widow or children towards loss of affection etc., the amount is to be paid on per head basis.

3. Learned counsel for the insurance company would submit that this aspect could have been raised by the applicant at the time of hearing of the case and passing of the final order on 06.05.2021, but it was not pointed out, therefore, there is no defect requiring any correction in the order dated 06.05.2021 passed in MAC No.869/2013.

4. We have heard counsel for the parties and perused the records, order dated 06.05.2021 as also the principles of law laid down by the Supreme Court in the case of **National Insurance Company Limited V. Pranay Sethi & Others** and **Magma General Insurance Company Limited V. Nanu Ram Alias Chuhru Ram & Others**.

5. Relying upon the principles with regard to grant of compensation as laid down by constitution Bench of the Supreme Court in the case of

1 (2017) 16 SCC 680

2 (2018) 18 SCC 130

National Insurance Company Limited V. Pranay Sethi & Others and **Magma General Insurance Company Limited V. Nanu Ram Alias Chuhru Ram & Others**, in the recent judicial pronouncement in the case of **Magma General Insurance Company Limited V. Nanu Ram Alias Chuhru Ram & Others (supra)** their Lordship in the Supreme Court clearly spelt out in Para 20, 21 of the order that the compensation for loss of consortium is required to be paid to each of the dependent, in the category of 'spousal consortium' or 'parental consortium' or 'filial consortium'.

In the case of **Magma General Insurance Company Limited V. Nanu Ram Alias Chuhru Ram & Others (supra)** also, the Supreme Court awarded filial consortium of Rs.40,000/- to each of the dependents in the category of father and sister. That means, the award of compensation towards loss of consortium has to be paid to each of the dependent because the loss is individual to them. Therefore, we find considerable force in the submission of learned counsel for the applicants that compensation towards loss of parental consortium ought to awarded to each of the children separately. To that extent, the order passed on 06.05.2021 in MAC No.869/2013 deserves to be and is accordingly corrected/modified. It is clarified that the compensation of Rs.40,000/- towards loss of parental consortium shall be payable to each of the children i.e. Applicant No.2 to Applicant No.6 namely Ku. Heena, Ku. Anju, Ku. Nisha. Ku. Deepali and Master Anand, who are children of deceased Vijay Kumar Kesharwani.

6. The MCC, with above clarification is accordingly finally disposed of.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge