

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 09.11.2021
Pronounced on 16.11.2021
M.A(C) No.639 of 2015

1. Smt. Sunandi Agariya, W/o Late Brijbhan Agariya @ Sanjay Aged About 20 Years R/o Village Shrigarh P.S. Kotwali Ambikapur Tahsil Ambikapur Distt Surguja Chhattisgarh
2. Ku. Arti D/o Late Bribhan Agariya @ Sanjay Aged About 1 Years Minor Through Mother R/o Village Shrigarh P.S. Kotwali Ambikapur Tahsil Ambikapur Distt Surguja Chhattisgarh
3. Smt. Manmati Agariya W/o Moharlal Agariya Aged About 43 Years R/o Village Shrigarh P.S. Kotwali Ambikapur Tahsil Ambikapur Distt Surguja Chhattisgarh
4. Moharlal Agariya S/o Late Ramlal Agariya Aged About 45 Years R/o Village Shrigarh P.S. Kotwali Ambikapur Tahsil Ambikapur Distt Surguja Chhattisgarh

--- Appellants

Versus

1. Chamru Ram, S/o Dhaula Ram Aged About 35 Years R/o Village Lakhanpur P.S. Tahsil Lakhanpur Distt. Surguja Chhattisgarh
2. Suresh Sahu S/o Dhaula Ram Aged About 35 Years R/o Village Lakhanpur P.S. And Tahsil Lakhanpur Distt Surguja Chhattisgarh
3. Branch Manager S/o Univeral Sompo General Insurance Company Limited Branch Office Registered And Corporate Office 401 4th Floor Sangam Complex 122 Andhan Kurla Road East Mumbai 400059 Maharashtra

----Respondents

For Appellants:	Shri AN Pandey, Advocate.
For Respondent No.1 & 2:	Notice dispensed with.
For Respondent No.3:	Shri T Abraham on behalf of Shri Amrito Das, Advocates.

Single Bench: Hon'ble Shri Deepak Kumar Tiwari, J
C A V Judgment

1. This Miscellaneous Appeal has been preferred by the Appellants/Claimants under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') questioning the legality and propriety of the award dated 23.02.2015 passed by the Motor Accident Claims Tribunal, Ambikapur, District Surguja (for short 'the Tribunal') in Claim Case No.177/2013 whereby,

the Tribunal has awarded a total amount of compensation to the tune of Rs.4,67,000/- with 6% interest per annum from the date of filing of the claim Petition till its realization.

2. The facts of the case in nut-shell are that on 20.10.2013 at about 7.00 pm, deceased Brijbhan Agariya @ Sanjay, while going from village Bhithikala to his house situated at village Shrigarh on his motorcycle bearing its Registration No.CG 15 C 5601, on reaching village Laxmipur, got hit by the offending vehicle Innova bearing its Registration No.CG 15 CP 0157 driven by Respondent No.1-Chamru Ram in a very rash and negligent manner, as a result of which, he sustained grievous injuries and succumbed to death on 21.10.2013 while being treated at the District Hospital.

3. Being aggrieved, the claimants have preferred this Appeal. Learned Counsel appearing for the Appellants/claimants submits that the Tribunal, while passing the award impugned, has erred in awarding a lump sum amount of Rs.4,67,000/- and failed to appreciate the evidence available on record in order to provide just and proper compensation to the claimants.

4. On the other hand, Counsel for Respondents have supported the award impugned and submitted that the Tribunal has not committed any illegality in awarding compensation as such.

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

6. Learned Counsel for the Appellants submits that the monthly income of the deceased has not been properly assessed by the Tribunal. The deceased was working as a Painter and used to earn Rs.6,000/- per month, for which, his wife Sunandi (AW-2) has been examined. No documentary evidence regarding the income of the deceased was produced before the Tribunal and

notional income of Rs.3,000/- per month has been assessed.

7. It is not disputed that the deceased had no permanent job, therefore, some guess work is required. Considering the fact that the incident is of the year 2013 and the minimum wage has also been substantially increased, therefore, this Court finds the monthly income of the deceased to be Rs.4,000/- as proper.

8. The deceased was of 25 years and was self employed, so looking to all these aspects, as per the judgment rendered in the matter of National Insurance Company Limited vs. Pranay Sethi And Others reported in (2017) 16 Supreme Court Cases 680, 40% of the income for future prospects is required to be added. The Tribunal has rightly applied multiplier of 18 and for the personal expenses, one-third deduction is also proper.

9. The Tribunal has not awarded adequate compensation under the conventional heads, funeral expenses and loss of estate. The Tribunal has awarded Rs.10,000/- and Rs.5,000/- respectively for the said heads whereas, Rs.15,000/- ought to have been awarded in each head. For loss of consortium, Rs.10,000/- has been awarded and for love and affection, Rs.10,000/-. It is required to be modified as Rs.40,000/- for spousal consortium and Rs.40,000/- for parental consortium to children.

10. Consequently, the claimants are entitled to the following amounts as compensation.

Sl.No.	Mode of Compensation	Amount in (Rs.)
i.	Income of the deceased Rs.4,000X12	48,000/-
ii.	Future prospects @ 40%	19,200/-
	Total income (48,000 + 19,200)	67,200/-
iii.	For personal expenses @ 1/3rd (67,200 – 22,400)	44,800/-
iv.	For loss of dependency 44,800x18	8,06,400/-

v.	For funeral expenses	15,000/-
vi.	For loss of estate	15,000/-
vii.	For spousal consortium	40,000/-
viii	For parental consortium to children	40,000/-
	Total	9,16,400/-
	Awarded amount	4,67,000/-
	Enhanced amount	4,49,400

11. Accordingly, the claimants would be entitled to a total sum of Rs.**9,16,400/-** instead of Rs.4,67,000 /- as awarded by the Tribunal with interest @ 6 % per annum from the date of filing the claim Petition till the date of actual payment.

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

Sd/-

(Deepak Kumar Tiwari)
Judge

Priya