

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 297 of 2015**

- Anup Agrawal son of Shiv Kumar Agrawal, aged about 32 years, R/o Pathanpara Main Road, Saraipali, P.S. and Tahsil Saraipali, District Mahasamund, Chhattisgarh

-----Owner**----Appellant****VERSUS**

1. Jagdish Patel, aged about 50 years, son of Uday Ram Patel
2. Smt. Nan Bai Patel, aged about 49 years, wife of Jagdish Patel [DELETED]
3. Uday Ram Patel, aged about 76 years, son of Budal Sai Patel
4. Smt. Khira Bai, aged about 55 years, wife of Uday Ram Patel

All R/o village and post Amarkot, P.S. and Tahsil Saraipali, District Mahasamund Chhattisgarh

5. Jeevan Lal Sahis, son of Kushu Prasad Sahis, aged about 39 years, R/o Birendra Nagar, Saraipali, P.S. and Tahsil Saraipali, District Mahasamund, Chhattisgarh

-----Driver**----Respondents**

For Appellant : Mr. Raghvendra Pradhan, Advocate

(proceedings through Video Conferencing)**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****07/07/2021**

1. Challenge in this appeal is to the award dated 30.04.2014 passed by learned Motor Accident Claims Tribunal, Mahasamund, C.G. (for short "Claims Tribunal") in claim case no. 43/2013, whereby learned Claims Tribunal allowed the application filed under Section 166 read-with Section 140 of the Motor Vehicles Act, 1988 (for short "Act of 1988") in part and awarded Rs. 3,91,000/- as total compensation in a death case.

2. Facts relevant for disposal of this appeal are, that on 18.04.2012, Narendra Kumar Patel was travelling on a motor cycle in a normal speed and going to village Basna Saraipali. While so, when he reached near Chhuipali, one pickup four-wheeler bearing registration no. CG04-JB-4516 (henceforth "offending vehicle") driven by non-applicant 1 rashly and negligently dashed the motor cycle of Narendra Kumar Patel. In the said accident, he suffered grievous injuries over his person. He was taken to hospital at Saraipali, where he succumbed to injuries on 19.04.2012. Respondent 1, 3 and 4 along with Smt. Naanbai Patel filed an application under Section 166 of the Act of 1988 seeking compensation of Rs. 12,50,000/- against the death of Narendra Kumar Patel.
3. Non-applicants 1 and 2 did not submit their reply to claim application within time and therefore *vide* order dated 17.02.2014 their Right to file reply/ written statement was closed.
4. Claimants in support of their application have examined Jagdish Patel father of deceased as AW-1, Dharmendra Patel, brother of deceased and Pitambar Naik in support of their claim.
5. Learned Claims Tribunal, based on the pleadings and evidence available on record had arrived at a finding that motor accidental injuries suffered by him was due to rash and negligent driving of offending vehicle by non-applicant 1. Claimants were dependent upon the income of deceased. Claims Tribunal upon assessing the income of deceased as Rs. 3,000/- per month ie. Rs. 36,000/- per annum, calculated the amount of compensation and awarded Rs. 3,91,000/-.
6. Mr. Raghvendra Pradhan, learned counsel for the appellant/ owner of offending vehicle would submit that the impugned award passed by learned

Claims Tribunal is contrary to law. Amount of compensation awarded is on higher side in view of the material available on record appellant would not be liable for payment of any amount of compensation. Income of deceased has been assessed on higher side. Amount of compensation awarded on other conventional heads is also much on higher side. He submits that the appeal may be allowed and the impugned award may be modified accordingly.

7. To appreciate the submission made by learned counsel for the appellant, I have perused the record of claim case.
8. Reply available in the record on behalf of non-applicants 1 and 2 would show that they have denied the fact of accident. It was pleaded that it is the deceased himself who dashed the stationary vehicle. Respondent 5 driver of the offending vehicle did not enter into witness box. To controvert the pleadings and evidence brought on record by the appellant, claimants have placed on record copy of final report Ext. P-1, copy of F.I.R. Ext. P-2 & P-3, Property Seizure memo Ext. P-4 to P-6, Merg intimation report Ext. P-8, Naksha panchayatnama Ext. P-9 and post-mortem report Ext. P-10.
9. Perusal of documents of criminal case placed on record from Ext. P-1 to P-10 would show that the offence under Section 304A of IPC and Section 446 of the Act of 1988 was registered against Respondent 5 Jivan Lal. Contents of F.I.R. ext. P-2 would show that the offending vehicle dashed the motor vehicle from its front side due to rash and negligent driving of driver of offending vehicle. Sofar as, the submission made by learned counsel for the appellant that the amount of compensation awarded to claimants is on higher side, perusal of record of claim case would show that the date of accident was 18.04.2012, age of deceased has been stated to be 21 years on the date of accident. Claims Tribunal has assessed income of deceased as Rs. 3,000/-

per month only. Even if it is considered that the deceased was engaged in manual labourer work then also the income of ordinary manual labourer would be much more. In the opinion of this Court, it cannot be said that income has been assessed on higher side. Claims Tribunal applied multiplier of 12, considering the age of parents of deceased. Law with regard to application of multiplier in case of deceased being an unmarried person has been very well discussed by Hon'ble Supreme Court in case of **Sube Singh v. Shyam Singh** reported in **(2018) 3 SCC 18** wherein it has been held that the application of multiplier in case of death of unmarried person will be based on the age of deceased himself and not the age of parents of deceased. In view of above it also cannot be said that multiplier applied is on higher side. Claims Tribunal has not awarded any amount towards future prospects as held by the Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi** reported in **(2017) 16 SCC 680**.

10. Sofar as, the submission of learned counsel with regard to excessive amount is awarded on other heads is concerned, Claims Tribunal has awarded Rs. 1,75,000/- which definitely is on higher side but looking to the entire facts and circumstances of the case, particularly, the assessment of income, application of multiplier of 12 instead of 18 and non-award of future prospects, I am not inclined to interfere with the amount of compensation awarded on other heads. If the amount of compensation is calculated even upon notional income basis for the year 2012 and by applying the law laid down by Hon'ble Supreme Court in aforementioned rulings for calculating the amount of compensation could have been much more than what has been awarded by the Claims Tribunal. The object of the Act of 1988 is to award just compensation to the victim or his/her family members.
11. For the foregoing reasons, this Court does not find any substance in the

submission made by learned counsel that the award of compensation awarded is much on higher side.

12. In view of the above, I do not find any merit in this appeal. It is hereby dismissed accordingly.

Sd/-
(Parth Prateem Sahu)
Judge