

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 20 of 2015**

{Arising out of order dated 27.11.2014 passed by the Additional Motor Accident Claims Tribunal Sarangarh, District Raigarh, Chhattisgarh in Claim Case No.09 of 2014}

1. Govind Singh S/o Shri Jaylal Aged About 55 Years
2. Smt. Shantio Bai W/o Govind Singh Aged About 50 Years
3. Minor Chitranjan S/o Govind Singh Aged About 17 Years, by caste Gond Appellant No.3 is minor, Through Natural Guardian Father Govind Singh. All are R/o Village- Dahida, Thana- Kosir, Tahsil Sarangarh, District Raigarh, Chhattisgarh

---- Appellants

Versus

1. Ashish Yadav S/o Chhatrapal Yadav Aged About 26 Years, Occupation DRiver R/o Village- Pailpara, Sarangarh, Thana And Tahsil Sarangarh, District Raigarh, Chhattisgarh
2. Yogeshwar Yadav S/o Neelamber Prasad Yadav R/o Ward No. 15, Pailpara, Sarangarh, Thana And Tahsil Sarangarh, District Raigarh, Chhattisgarh
3. Branch Manager S/o Shriram General Insurance Company Limited, E-8 EPIP RLLCO Industrial Area Seetapur, Jaypur Rajasthan, 302022 Branch Office, Raigarh, District Raigarh, Chhattisgarh

---- Respondents

MAC No. 610 of 2015

{Arising out of order dated 27.11.2014 passed by the Additional Motor Accident Claims Tribunal Sarangarh, District Raigarh, Chhattisgarh in Claim Case No.09 of 2014}

Branch Manager, Shri Ram General Insurance Company Limited
Address-E-8 EPIP. RLLCO Industrial Area, Sitapura Jaipur Rajasthan
302022 Branch Office Raigarh, District Raigarh, Chhattisgarh.

---- Appellant

Versus

1. Govind Singh S/o Jailal Aged About 26 Years Caste Gond
2. Smt. Shanti Bai S/o W/o Govind Singh Aged About 50 Years Caste Gond
3. Minor Chitranjan S/o S/o Govind Singh Aged About 17 Years Caste Gond No.3 Minor Through Natural Guardian and Parent No.1 Govind Singh S/o Jailal, Caste Dahida No.1 to 3 All R/o Gram.Dahida Post Dahida, Thana Koshir, Tahsil Sarangarh, District Raigarh, Chhattisgarh.
4. Ashish Yadav S/o Chatrapall Yadav Aged About 26 Years R/o Sarangarh, Thana And Tahsil Sarangarh, District Raigarh, Chhattisgarh.
5. Yougeshwar Yadav S/o Nilamber Prasad Yadav R/o Ward No. 15, Pail Para Sarangarh Thana And Tahsil, Sarangarh District Raigarh, Chhattisgarh.

---- Respondents

For Claimants	:	Shri Sumit Shrivastava, Advocate
For Driver and Owner	:	None
For Insurance Company	:	Shri Deepak Gupta, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

07.01.2021

1. Both the appeals are arising from one and the same award dated 27.11.2014 passed by the Additional Motor Accident Claims Tribunal Sarangarh, District Raigarh, Chhattisgarh (for short 'Tribunal') in Claim Case No.09 of 2014. MAC No.20 of 2015 has been filed by the Claimants seeking for enhancement of the compensation, whereas MAC No.610 of 2015 has been filed by the Insurer seeking to scale down the quantum.
2. The sequence of events reveals that the deceased by name, Gurmel Singh Sidar was travelling as a passenger in the offending Bus bearing No.CG-13/Q/0379 driven by the 1st Respondent, owned by the 2nd Respondent and insured by the 3rd Respondent. On the way, because of the rash and negligent driving of the Bus by the 1st Respondent, it turned turtle, causing fatal injuries to Gurmel Singh Sidar leading to his death which led to the claim petition filed by the parents and siblings of the deceased.
3. The claim was contested by the Respondents concerned, mainly on negligence and quantum. Issuance of valid insurance policy was virtually conceded by the 3rd Respondent. It was the case of the Claimants that the deceased was working as Assistant Teacher in Panchayat Primary

School and was having a monthly salary of Rs.10,000/-. Considering the pleadings and evidence on record, the Tribunal held that the accident was solely because of the negligence on the part of the 1st Respondent/driver of the offending vehicle. Observing that the evidence brought on record had revealed the factum of employment of the deceased as Assistant Teacher in Panchayat Primary School and as to having monthly salary of Rs.9,776/-, 50% of the said income alone was reckoned (the deceased being a bachelor) and adopting the multiplier of 18, the dependency compensation was worked out as Rs.10,55,808/-. Awarding a sum of Rs.5,000/- towards funeral expenses, Rs.15,000/- towards loss of love and affection/consortium and Rs.2,500/- towards loss of estate, the total compensation was fixed as Rs.10,78,308/-. This was directed to be satisfied with interest at the rate of 6% per annum from the date of filing of claim application.

4. The learned counsel for the Claimants submits that the Tribunal has failed in not considering the 'future prospects' of the deceased. Similarly, the Tribunal has awarded only meagre amounts of compensation under other relevant heads as well. According to the learned counsel for the Insurance Company, the monthly income of the deceased reckoned by the Tribunal as Rs.9,776/- is without any basis and hence the amount awarded by the Tribunal has been sought to be scaled down in the appeal preferred by the Insurance Company.
5. We have heard both the sides and perused the records.
6. The specific case pleaded by the Claimants is that the deceased was in the age group of 20-25 years and that he was in permanent employment as Shiksha Karmi (Assistant Teacher in Panchayat Primary School). The

monthly salary of Rs.9,776/- is in evidence brought on record including Annexure P/8, which is part of the relevant Register. Deduction of salary to an extent of 50%, as the deceased was a bachelor and the application of the multiplier of '18' (in view of the age factor of the deceased) are quite in order. However, the Tribunal has not considered the 'future prospects' in terms of the law and has not awarded the amounts actually due under other relevant heads in the light of the law declared by the Apex Court in **Sarla Verma v. Delhi Transportation Corporation** reported in **(2009) 6 SCC 121** and the Constitution Bench in **National Insurance Company Limited v. Pranay Sethi & Others** reported in **(2017) 16 SCC 680**, as well as the subsequent verdict in **Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram & Others** reported in **(2018) 18 SCC 130**.

7. In view of the proven fact that the deceased was having permanent employment as Assistant Teacher in Panchayat Primary School with a monthly salary of Rs.9,776/-, future prospects to an extent of 50% is to be added, in terms of the rulings mentioned above. As such, the computation of the amount towards loss of dependency comes to **Rs.15,83,712/-** ($9,776 + 50\% = 14,664 \times 12 \times 50 / 100 \times 18$).
8. By virtue of the rulings rendered by the Hon'ble Apex Court referred to above, the amount payable under the conventional heads; such as funeral expenses and loss of estate are to be at the rate of Rs.15,000/- under each of the above two heads. Similarly, the loss of love and affection payable to the parents as 'filial consortium' as explained by Hon'ble Apex Court in **Magma General Insurance Company Limited** (supra) is to be Rs.40,000/-. Thus, the total compensation payable comes to **Rs.16,53,712/-** ($6,04,800 + 15,000 + 15,000 + 40,000$). After giving

credit to the sum of Rs.10,78,308/- awarded by the Tribunal, the balance payable comes to **Rs.5,75,404** (rupees five lacs seventy-five thousand four hundred four only), which requires to be satisfied with interest at the rate of 7% per annum from the date of filing of claim petition, till satisfaction.

9. Since the policy stands admitted, it is for the Insurance Company (3rd Respondent No.3 in MAC No.20 of 2015 and Appellant in MAC No.610 of 2015) to deposit the amount due before the Tribunal with intimation to the Claimants. This shall be done as expeditiously as possible, at any rate within 'six weeks' from the date of receipt of a copy of this judgment.
10. In view of the discussion as above, MAC No.20 of 2015 preferred by the Claimants stands allowed to the said extent and MAC No.610 of 2015 preferred by the Insurance Company stands dismissed as devoid of any merit.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge