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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 51 of 2015

{Arising out of order dated 20.11.2014 passed by Additional Motor Accident Claims Tribunal (F.T.C.) Jashpur, District Jashpur, Chhattisgarh in Claim Case No.18 of 2013}

1. Smt. Lalita Bhagat W/o Late Babulal Ram Bhagat Aged About 36 Years
2. Minor Kumari Dipti D/o Late Babulal Ram Bhagat Aged About 11 Years
3. Minor Kumari Manita D/o Late Babulal Ram Bhagat Aged About 5 Years
4. Minor Satish Bhagat S/o Late Babulal Ram Bhagat Aged About 5 Years
5. Minor Prabhat Bhagat S/o Late Babulal Ram Bhagat Aged About 3 Years For Appellant No.2 to 5 through their next friend Smt. Lalita Bhagat, Appellant No.1
6. All R/o Village Jaamtoli, Tahsil Jashpur, P.S. Jashpur, District Jashpur, Chhattisgarh

---- Appellants

Versus

1. Chandrajeet Yadav S/o Shivnarayan Yadav C/o J.K. Singh, P.C. Colony, Kankad Bagh, Patna 800020 Bihar
2. Ajeet Kumar Yadav S/o Madhav Prasad Yadav Occupation Driver R/o Manikpur, Police Station Parwalpur, District Nalanda Bihar
3. Reliance General Insurance Company Limited 301/302 Kaushalya Estate, Bandar Bagicha, Dak Banglo Square, Patna, 800001 Bihar

---- Respondents

For Appellants	:	Shri Rishikant Mahobia, Advocate
For Respondent No.1 and 2	:	None
For Respondent No.3	:	Shri Shailesh Tiwari, 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

21.01.2021

1. Appeal arises from the Award passed by the Additional Motor Accident Claims Tribunal (F.T.C.), Jashpur, District Jashpur, Chhattisgarh in Claim Case No.18 of 2013. Grievance is in respect of the quantum of compensation awarded by the Tribunal, which is stated to be on the lower side.

2. The deceased by name, Babulal stated as aged about 39 years was proceeding on his bicycle when he was knocked down by the offending Truck bearing No.BR-01/GB/6280, owned by the 1st Respondent, driven by the 2nd Respondent and insured by the 3rd Respondent. This led to claim petition filed by the widow and three minor children of the deceased before the Tribunal. The claim was mainly resisted on quantum and negligence. On conclusion of the trial, the Tribunal, based on the materials on record, held that the accident was solely because of the negligence on the part of the 2nd Respondent/driver of the offending Truck. With regard to the quantum of compensation, the Tribunal reckoned Rs.3,000/- as notional monthly income and adopting a multiplier of 15 and effecting a deduction of ¼ towards personal expenses, worked out the compensation towards loss of dependency as Rs.4,05,000/-. Awarding a sum of Rs.5,000/- towards funeral expenses and a further sum of Rs.5,000/- towards loss of consortium, a total sum of Rs.4,15,000/- was fixed as the compensation, which was directed to be satisfied with interest at the rate of 6% per annum from the date of filing of claim application. The liability was mulcted upon the 3rd Respondent/Insurance Company on the strength of the valid insurance policy issued in this regard.

3. The learned counsel for the Appellants submits that no future prospects have been considered by the Tribunal and further that, the notional monthly income itself is much on the lower side.

4. The legal position now stands settled by virtue of the law declared by the Apex Court in **Sarla Verma Vs. Delhi Transportation Corporation** reported in **(2009) 6 SCC 121.** It stands affirmed by the Constitution Bench of the Apex Court in **National Insurance Company Limited vs**

Pranay Sethi & Others reported in **(2017) 16 SCC 680**. Even though, it has been observed by the Tribunal that as per the postmortem report, the deceased was shown of 40 years of age, there is no conclusive proof with regard to the age. Based on the available materials, we reckon the same as 39 years as contended by the Appellants/Claimants. In the instant case, since the accident occurred was in the year 2012, we find it appropriate to modify the notional monthly income by enhancing the same from Rs.3,000/- to Rs.4,000/-. Going by the rulings rendered by the Apex Court as cited above, in the case of persons of less than 40 years of age with no fixed income, 40% of the income has to be added for fixing the multiplicand. On computing the compensation payable towards loss of life as above, it comes to **Rs.7,56,000/-** (4,000 x 40% = 1,600; 4,000 + 1,600 = 5600 x 12 x 3/4 x 15). Since the Tribunal has awarded only Rs.4,05,000/- towards loss of dependency, the balance payable comes to **Rs.3,51,000/-**

5. The scope of 'consortium' has been subsequently explained by the Apex Court in ***Magma General Insurance Company Limited vs Nanu Ram Alias Chuhru Ram & Others*** reported in **(2018) 18 SCC 130**. It can be of three types; **Parental consortium** (payable to children because of the death of parents); **Spousal consortium** (payable to the surviving spouse because of the death of the partner) and **Filial consortium** (payable to the parents because of the death of children). This being the position, the Appellant No.1/widow is entitled to get a sum of Rs.40,000/- towards 'Spousal Consortium'. Since the Tribunal has awarded only Rs.5,000/-, the balance payable comes to **Rs.35,000/-**. Similarly, the Appellants No.2 to 4 are entitled to get a sum of **Rs.40,000/-** towards 'Parental Consortium'. Further, a sum of Rs.15,000/- is payable towards funeral

expenses in view of the law declared in **Pranay Sethi** (supra). Since the Tribunal has awarded only Rs.5,000/-, a balance amount of **Rs.10,000/-** is ordered towards 'Funeral Expenses'. As per the decision rendered in **Pranay Sethi** (supra), the Appellants/Claimants are also entitled to get a sum of Rs.15,000/- towards loss of estate. Since the Tribunal has not awarded any amount under this head, we award a sum of **Rs.15,000/-** under this head as well.

6. In the said circumstance, the total balance compensation payable comes to **Rs.4,51,000/- (Four lac fifty-one thousand rupees only)** and it stands awarded in this appeal.

7. Since the policy is admitted, the 3rd Respondent-Insurer is directed to satisfy the said amount with interest @ 7% per annum from the date of the application, till satisfaction. The Insurer of the offending vehicle is directed to deposit the said amount with notice to the Appellants/Claimants before the Tribunal, as expeditiously as possible, at any rate within 'one month' from the date of receipt of a copy of this judgment. The appeal stands allowed to the said extent.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Anu