

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 17.11.2021
Pronounced on 18.11.2021
M.A(C) No.681 of 2015

1. Larence @ Lorendra Tigga (Deleted) As Per Hon'ble Court Order Dated 08-11-2021
2. Smt. Salomi Tigga W/o Smt. Larence @ Lorendra Tigga Aged About 50 Years R/o Ward No. 9 Near Mata Rajmohani Devi Ward Housing Board Colony Namnakala Naar- Ambikapur P.S. And Tahsil Ambikapur- District - Surguja, Chhattisgarh
--- Appellants

Versus

1. Gourishankar Vishwakarma S/o Chhotelal Vishwakaram R/o Village Bhalmatola Post- Khanuha P.S. - Tarai District- Singrouli, Madhya Pradesh,
2. Vijay Narayan Sah S/o Rajmani Sah R/o Village Charua Post- Rajmilan Singarouli District- Sidhi, Madhya Pradesh,
3. Branch Manager, Shriram General Insurance Company Branch Office E.P.I.P. Riko Industrial Area Sitapur, Rajasthan
----Respondents

For Appellant No.2:	Shri AN Pandey, Advocate.
For Respondents No.1 & 2:	Notice dispensed with.
For Respondent No.3:	Shri Raghavendra Verma appears on behalf of Shri Deepak Gupta, Advocate.

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 08.10.2014 passed by the Motor Accident Claims Tribunal, Ambikapur, District Surguja (for short 'the Tribunal') in Claim Case No.123/2013 whereby, the Tribunal has awarded a total amount of compensation to the tune of Rs.3,44,000/- with 6% interest per annum from the date of filing of the claim Petition till its realization.
2. The facts of the case in brief are that on 12.06.2013 at about 3.30 pm, when the son of the Appellants/claimants namely Animesh Tigga, the

deceased was returning from village Mani by his motorcycle to his house along with his friend Raju, when they reached near village Pampapur, Pratappur-Ambikapur road, the offending truck bearing its Registration No.M.P66/H-0506 being driven by Respondent No.1 in a rash and negligent manner, dashed the motorcycle resulting in the spot death of the deceased.

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.3,44,000/- 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 at a mobile repair shop and used to earn Rs.12,000/- per month but the Tribunal, without considering the material evidence available on record, has wrongly assessed the same to be Rs.3,000/- and therefore, the impugned award needs to be modified.

7. The age of the deceased Animesh Tigga is 20 years as per the postmortem report (Ex.P-7). As per the statement of his father (AW-1), the deceased was unmarried and studied upto 12th standard and used to sit in the shop of his younger brother. The Tribunal, has on the basis of no documentary evidence, assessed the notional income of the deceased to be

Rs.3,000/- per month. As the incident took place on 12.06.2013, therefore, looking to the substantial increase in the minimum wages, this Court finds it proper to assess the notional income to be Rs.4,000/- per month.

8. The Tribunal has not awarded any amount for future prospects and as per the dictum 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.

9. The Tribunal has awarded Rs.10,000/- for funeral expenses, which is required to be modified to Rs.15,000/-, Rs.5,000/- awarded for love and affection has to be modified to Rs.40,000/- for loss of consortium to parents, only 5,000/- has been awarded for loss of estate, which is required to be modified to Rs.15,000/-. The Tribunal has rightly applied multiplier of 18 and 50% for deduction of personal expenses is also proper as the deceased was a bachelor, therefore, no interference is required on such aspects.

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 deducted 50% (67,200 – 33,600)	33,600/-
iv.	For loss of dependency 33,600x18	6,04,800/-
v.	For funeral expenses	15,000/-
vi.	For loss of estate	15,000/-
vii.	For loss of consortium to parents	40,000/-
	Total	6,74,800/-
	Awarded amount	3,44,000/-
	Enhanced amount	3,30,800

11. Accordingly, the claimants would be entitled to a total sum of Rs.**6,74,800/-** instead of Rs.3,44,000/- 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