

(2019) 02 OHC CK 0024
In the Orissa High Court
Case No : MACA No.570, 640 Of 2018

Divisional Manager, Reliance General Insurance Co. Ltd.,	APPELLANT
Vs	
Manjushree Mohapatra And Another	RESPONDENT

Date of Decision : 06-02-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 129, 166

Citation : (2019) 02 OHC CK 0024

Hon'ble Judges : Dr. A. K. Rath, J

Bench : Single Bench

Advocate : G.P. Dutta, K. Panigrahi, G.P. Dutta

Final Decision : Allowed/Dismissed

Judgement

Sl. No, Heads, Calculation

(i), "Monthly income after deduction of professional tax and
Income tax", "Rs.55,572/-

(ii), Annual income of the deceased., "Rs.6,66,764/-

(iii), 50% of (ii) above to be added as future prospective., "Rs .6,66,764/- +
Rs.3,33,382/-

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Rs.10,00,146/-

(iv), "50% of (iii) deducted as personal expenses of the deceased
per annum.", "Rs.10,00,146.00 â?" Rs.5,00,073.00

Â = Rs.5,00,073/-

(v), "Annual contribution to family after 50% addition as future
prospects and 50% deduction as personal expenses.", "Rs.5,00,073/-

consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance", and training."

Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child, causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime.

Children are valued for their love, affection, companionship and their role in the family unit."

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world over have,

cognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child.

Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the,

parents is a compensation for loss of the love, affection, care and companionship of the deceased child. In the said case, Rs.80,000/- was awarded",

towards filial consortium to the parents.

14. Thus the claimants are entitled to Rs.80,000/- towards filial consortium. So calculated, the compensation comes to Rs.81,11,168/-."

15. In *Jasbir Kaur and others* (supra), the apex Court held that it has to be borne in mind that the compensation is not expected to be a windfall for the,

victim. Statutory provisions clearly indicate the compensation must be "just" and it cannot be a pittance. The Courts and Tribunals have a duty to,

weigh the various factors and quantify the amount of compensation, which should be just. It further held that the expression "just" denotes",

equitability, fairness and reasonableness and non-arbitrary. There is no quarrel over the proposition of law."

16. In *K.S.R.T.C.* (supra), the apex Court held that the multiplier-method logically sound and legally well-established."

17. In *U.P.S.R.T.C. and others* (supra), the apex Court held that the calculation of compensation and the schedule appended thereto for calculation of",

compensation suffers from several defects. The multiplier cannot exceed 18 years purchase factor.

18. In *Bijay Kumar Dugar* (supra), the apex Court taken into account the age of

