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HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. APPEAL (C) NO. 184 OF 2008

Purushottam Lal Chandrakar, S/o Komal Lal Chandrakar, aged about 48 years, R/o Thanapara, Baghbahara, Tehsil-Mahasamund, District – Mahasamund (C.G.), (Occupation – registered owner of Tractor bearing Registration No. C.G.06/A-0784 and Trolley No. C.G.06/A-0785)

… Appellant

Versus

1. Dev Singh Yadav, S/o Late Rajaram Yadav, aged about 50 years.

2. Smt. Pilee Bai Yadav, W/o Dev Singh Yadav, aged about 45 years.

Both R/o Village – Dawanbode, Post- Sukhari Dabri, Police Station – Baghbahara, Tehsil-Mahasamund, District – Mahasamund (C.G.)

… Respondents

For Appellant	:	Mr. Shivendu Pandya, Advocate.
For Respondents	:	Mr. C.R. Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/08/2015

1. The present is an appeal under Section 173 of the Motor Vehicles Act preferred by the owner of the offending vehicle who has been saddled with the liability of payment of compensation by impugned order dated 23.8.2007 passed by the Chief Motor Accident Claims Tribunal, Mahasamund in Claim Case No. 16 of 2007.

2. Brief facts relevant for adjudication of the appeal are that an accident occurred from the Tractor & Trolley (bearing Registration No. CG06-A-0784 & CG06-A-0785) on 20.5.2004 and as a result of the said accident, driver of the said Tractor & Trolley as well as the deceased in the present case, namely, Krishna Yadav, who were traveling in the said Tractor & Trolley, died instantaneously.

3. Respondents/Claimants who are father and mother respectively of the deceased had filed a claim application before the Claims Tribunal claiming for compensation on account of the death of the deceased.

After completion of the pleadings and evidence, the Claims Tribunal vide the impugned award dated 23.8.2007 awarded an amount of Rs. 2,90,000/- towards compensation and Rs.500/- towards cost of litigation in favour of the Respondents-Claimants and the liability of payment was saddled on the owner of the Tractor & Trolley.

4. The present appeal has been preferred by the owner of the vehicle involved in the accident only challenging the quantum part.

5. It is pertinent to note that on an earlier round of litigation the present appeal was allowed *ex-parte* by this Court on 4.4.2008 and compensation of Rs.2,90,000/- awarded by the Claims Tribunal was reduced to Rs.1,16,000/-. However, subsequently, on a review petition filed by the Respondents-Claimants, this Court vide its order dated 17.4.2014 recalled the earlier order dated 4.4.2008 and the present appeal was directed to be listed for further hearing.

6. According to the learned Counsel for the Appellant, the Claims Tribunal has committed an error of law in calculating the monthly income of the deceased at the rate of Rs.3000/- per month whereas the deceased at the relevant point of time was only 18 years of age and was not employed anywhere and his employment has not been properly established before the Claims Tribunal. Counsel for the Appellant further submits that even otherwise the multiplier also has not been properly taken into consideration by the Claims Tribunal while computing the compensation and the award therefore deserves to be interfered on these two grounds.

7. Learned Counsel for the Respondents however submits that the deceased, son of the Respondents, was working with the present Appellant in the Tractor & Trolley owned by the Appellant and on the fateful day he was traveling in the Tractor & Trolley as a labour in connection with the work of the Appellant and that he was earning an

amount of Rs.200/- per day, i.e., an amount of approximately Rs.6000/- per month.

8. Admittedly, the Tractor & Trolley belonging to the Appellant was not insured at the time of accident in question and that the Respondents-Claimants have in-fact been able to establish the fact that the deceased had been working as a labour in the Tractor & Trolley of the Appellant which met with an accident on 20.5.2004. Though the Respondents-Claimants have in their claim application stated that the deceased was earning Rs.200/- per day as daily wage while working with the Appellant but even if 50% of it is to be accepted which definitely must have been earned by the deceased as a daily wage worker and if Rs.100/- per day is calculated even then it would be an admitted position that he would be earning Rs.3000/- per month and which the Claims Tribunal has calculated while computing the compensation taking into account his wage to be Rs.3000/- per month.

9. So far as multiplier part is concerned, the law in this regard by now is well settled by the judgement of the Supreme Court in the case of Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr. [2009 (6) SCC 121]. If the principle laid down in the case of Sarla Verma is to be applied then perhaps the multiplier taken into account by the Tribunal would be on the lower side as Sarla Verma prescribes a higher multiplier in respect of the deceased of 18 years of age.

10. Thus, both the grounds raised by the Appellants so far as calculation of wage at the rate of Rs.3000/- per month as also the multiplier, are not justifiable and sustainable and the amount of compensation assessed cannot be termed as excessive but is just compensation and the same deserves to be and is hereby affirmed.

11. The appeal being devoid of merits is dismissed. No cost.

Sd/-
(P. Sam Koshy)
Judge

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