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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal No. 111 of 2002

1. Smt. Satvantin Devi Sahu, aged 24 years.
2. Shrikant Sahu aged 9 years, Minor.
3. Shashikant Sahu, aged 7 years, Minor.
4. Rajnikant Sahu, aged 5 years, Minor.
5. Ku. Kumeshwari Devi aged 3 years, Minor.
6. Latel Ram Sahu, aged 50 years, S/o Umarao Sahu.
7. Smt. Shiv Kumari Devi aged 45 years w/o Latel Ram Sahu.

No. 1 wife: nos 2 to 4 sons;

No. 5 - daughter.

No. 6 father No. 7: Mother of Shri Paduman Lal Sahu (Deceased)

R/o Village Mohtara Teli, Tahsil Lormi, District Bilaspur.

---- Appellants

Versus

1. Smt. Krishna Devi Sahu W/o Shri A.L.Sahu, R/o village & Post Jarahagaon, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
2. Shri Hari Prasad Sahu S/o Shri B.L.Sahu, R/o village & Post Jarhagaon, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
3. The New India Insurance Company Limited, Through Branch Manager, Branch Office, Rajendra Nagar Chouk Bilaspur, Chhattisgarh.

---- Respondents

For Appellant/Claimants	: Shri Anurag Dayal Shrivastava, Advocate.
For Respondent/Insurance Company	: Shri Shree Kumar Agrawal, Senior Advocate with Shri Anand Gupta, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

26/08/2016

1. This appeal for enhancement of the compensation is directed against the award dated 05.09.2001 passed by the learned 5th Additional Motor Accident Claims Tribunal, Bilaspur (hereinafter called 'the Tribunal), in Claim Case No. 94 of 2001.

2. Since the only issue involved in this case is enhancement of the compensation, it is not necessary to give other facts of the case. The deceased-

Paduman Lal Sahu was aged about 30 years. He was a registered medical practitioner. He left behind his widow and four minor children. Claimants No. 6 and 7 are the parents of the deceased.

3. The accident occurred on 13.08.2000. The learned Tribunal on the basis of evidence, assessed income of the deceased at Rs. 3,000/- per month. After deducting 1/3rd towards his personal expenses and applying multiplier of 17, the learned Tribunal awarded a sum of Rs. 4,25,000/- as compensation.

4. The evidence with regard to income is very weak. I accept the income as assessed by the learned Tribunal. However, 50% shall have to be added to this income on account of future prospects of the deceased and therefore, his income is taken to be Rs. 4,500/- per month for the purposes of calculating the compensation. Coming to the issue of deduction, I am clearly of the view that the learned Tribunal has gravely erred in deducting 1/3rd towards personal expenses of the deceased. We are dealing herewith a case where the deceased left behind his mother, widow and four children and therefore, in this case, only 1/4th of the income should have been deducted towards personal expenses of the deceased. Since the income has been assessed at Rs. 4,500/- per month, 1/4th comes to Rs. 1,125/- leaving monthly dependency at Rs. 3,375/- per month or Rs. 40,500/- per annum. Since the deceased was aged about 30 years, multiplier as per the judgment of *Sarla Verma (Smt.) & Others v. Delhi Transport Corporation* {(2009) 6 SCC 121} would be 16 and the compensation works out to Rs. 6,48,000/-.

5. In addition thereto, the Claimants are held entitled to another sum of Rs. 20,000/- for funeral expenses and the widow is held entitled to Rs. 50,000/- for loss of consortium. The total compensation is accordingly assessed at Rs. (6,48,000+20,000+50,000) = 7,18,000/-.

6. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs. 4,25,000/- to Rs. 7,18,000/- i.e. by Rs. 2,93,000/-. On the amount of compensation so awarded, the Claimants shall also be entitled to interest at the rate of 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount. The Insurance Company is directed to deposit the enhanced amount of compensation alongwith proportionate interest thereupon before the learned Tribunal within a period of four months from today. Obviously, the Insurance Company shall be entitled to adjust the amount, if any which it has already paid or deposited.

7. The total amount of compensation i.e. Rs. 7,18,000/- is however apportioned as follows:

(a) Widow : Rs. 2,18,000/-

(b) Mother : Rs. 1,00,000/-

(c) Four Children : Rs. 1,00,000/- each.

8. The amount falling to the share of the minor children shall be kept in a fixed deposit till they attain the age of majority. So far as the major claimants are concerned, the amount may be paid to them.

9. No order asto costs. Send down the lower Court records forthwith.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Subbu