



IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.NO. 137 / 2005

APPELLANTS

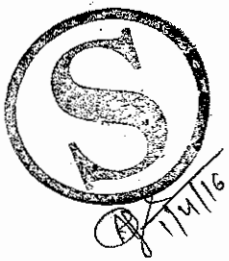
1. Ramdev Arawal S/o Bhupdev Agrawal, aged about 30 years;
2. Ku. Pinki D/o Ramdeo Agrawal aged about 4 years;
3. Rajatdev Agrawal S/o Ramdev Agrawal, aged about 3 years;
Through: Guardian Father
Ramdev Agrawal, S/o Bhupdev Agrawal, R/o Hamalpara, Kharsia, District Raigarh, (C.G.).

P.R. No. 247/05
Presented by Shri. D. A. Bhowmik
dated 24.1.05

VERSUS

RESPONDENTS

1. Rajkishore S/o Vadudev aged about 52 years, R/o Kabir Chouk, Jut Mill, Raigarh, Tahsil and District Raigarh, (C.G.).
(OWNER)
2. Krishna Pandey S/o Jagdish Pandey, R/o Ghoghari, Police Station Dabhra, District Janjgir-Champa, (C.G.). (DRIVER).
3. The Oriental Insurance Company, Branch Office, Itwari Bazar, Raigarh, (C.G.).
(INSURER).



(42)

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HIGH COURT OF CHHATTISGARH, BILASPUR**MA No.137 of 2005**

Ramdev Agrawal And Others

---- Petitioner

Versus

Rajkishore And Others

---- Respondent

For Petitioners : Shri Vivek Bhakta, Advocate
For Respondent No.3 : Shri H. B. Agrawal, Sr. Adv. With Smt. Meera Jaiswal, Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****14/03/2016**

This appeal has been filed by the Claimants/appellants for enhancement of compensation awarded by the Claims Tribunal vide award dated 18-10-2004 in claim case No.58/2002.

2. In an unfortunate incident of accident which happened on 08-09-1999, wife of the appellant No.1-Ramdev Agrawal and mother of appellants No.2 & 3- Ku. Pinki & Rajat Dev, died. An application under Section 166 of the Motor Vehicle Act was filed for award of proper compensation.

3. Learned Claims Tribunal, on the basis of oral and documentary evidence placed before it, held that the notional income of the deceased could be taken into consideration in the absence of proof of any specific vocation or employment and earning therefrom and total compensation of Rs.73,200/- was



awarded by the Claims Tribunal along with interest @ 6% per annum.

4. Learned counsel for the appellants argued that the Claims Tribunal has committed illegality in holding that the claimants had failed to prove that the deceased was earning Rs.5,000/- per month by preparing household items and also working in the Photo Studio. He submits that the oral evidence in this regard has been led by the Claimants which has been disbelieved by the Tribunal without cogent reasons. It is next contended that while awarding compensation, future prospects have not been taken into consideration.

Learned counsel for appellants argued that towards funeral expenses, loss of consortium and loss of love and affection, very meager amount has been awarded.

5. On the other hand, learned counsel for respondent No.3 submitted that proper compensation has been awarded by the Claims Tribunal. It is also submitted that there is no clinching evidence that the deceased was engaged in any business or employment and therefrom earning Rs.5,000/-, therefore, in these circumstances, the Claims Tribunal has rightly arrived at notional income of Rs.5,000/-. He submits that under all other heads, appropriate amount has been awarded. In the absence of there being evidence regarding employment or business, claim of compensation based on future prospects could not be awarded.

6. In the present case, in order to prove that the deceased was earning in the Photo Studio and also by certain activities of cottage industries by preparing eatables, the claimants have examined Ramdev Agrawal, AW-1 and Shrawan Kumar Agrawal, AW-2.

7. The aforesaid witnesses have vaguely stated that the deceased was earning in preparing eatables. It is stated that she was engaged in small scale industry but no registration documents was submitted before the Court. There is no evidence that the supply was made by the deceased to any customer. The evidence of employment is without any cogent documentary evidence or evidence of any person other than the husband of the deceased. Ramdev Agrawal, AW-1 has admitted that he was running a Photo Studio.

8. In view of above, in my opinion, the Claims Tribunal has not committed any illegality in coming to the conclusion that the deceased was not engaged in specific employment, business or vocation and for that reason, notional income has been taken. In the absence of there being cogent evidence that the deceased was engaged in specific employment or business, I am not inclined to accept the submission that towards future prospects also, some amount should be awarded. The deceased being aged 29 years, multiplier of 18 has rightly been taken into consideration, which does not call for any interference. However, as far as expenses towards funeral expenses, loss of company and loss of love and affection concerned, the same appears to be on lower side. Accordingly, compensation towards different heads is awarded as under:

Funeral Expenses	Rs.5,000/-
Loss of consortium	Rs.10,000/-
Loss of love and affection	Rs.10,000/-
Total	Rs.25,000/-

It is directed that additional amount of Rs.13,000/- under the aforesated heads, in addition to the amount already awarded, is payable to the appellants-

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claimants @ 6% interest per annum from the date of submission of application.

9. In view of foregoing, the appeal is partly allowed in the manner and to the extent indicated above.

Sd/-

Manindra Mohan Shrivastava

Judge