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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal No.522 of 2003

1. Smt. Kanan Vaidh, Widow of the deceased, aged about 37 years,
2. Ku. Shilima Vaidh, D/o the deceased Niranjana Vaidh, aged about 17 years,
3. Ku. Pratima Vaidh, D/o the deceased Niranjana Vaidh, aged about 15 years,
4. Ku. Purnima Vaidh, D/o the deceased Niranjana Vaidh, aged about 13 years,
5. Ku. Gaori Vaidh, D/o the deceased Niranjana Vaidh, aged about 11 years,
6. Ku. Punam Vaidh, D/o the deceased Niranjana Vaidh, aged about 9 years,
7. Ku. Pooja Vaidh, D/o Late Niranjana Vaidh, aged about 7 years,

(The appellants No.2, 3, 4, 5, 6 & 7 are all the minor daughters of the deceased, through the Guardian i.e. the widow mother, the appellant No.1 Smt. Kanan Vaidh)

They all are R/o Block No.184-42, Mana Camp, Raipur, District Raipur, Chhattisgarh

---- Appellants

versus

1. Krishna Kumar Sahu Urf Kishore Kumar Sahu, S/o Dayaram Sahu, at Banarsi, P.S. Mandir Hasaod, District Raipur
2. Smt. Rambai, W/o Punaram Verma, R/o Village Ameri, P.O. Tekari, P.S. Mandir Hasaod, District Raipur
3. The New India Insurance Company Ltd. Through Divisional Manager The New India Insurance Company Ltd., Kachahari Chowk, Jail Road, Raipur, Chhattisgarh

---- Respondents

For Appellants	:	Shri A.L. Singroul, Advocate
For Respondent No.3	:	Shri Raj Awasthi, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

9.12.2016

1. Heard on I.A. No.1675 of 2004, an application for amendment in the cause-title.
2. For the reasons stated in the application, it is allowed. Necessary amendment be carried out during the course of the day.

3. This appeal by the claimants/Appellants is directed against the award dated 5.3.2003 passed by the Learned Motor Accidents Claims Tribunal, Raipur in Claim Case No.7 of 2002, whereby the Claims Tribunal has passed an award of Rs.1,50,000/- in favour of the claimants.
4. Since the only issue involved is the amount of compensation, it is not necessary to give the facts relating to the accident which is not disputed. The deceased was aged about 40 years. He left behind a widow and 6 minor children. He was a motor mechanic. The Learned Claims Tribunal held that the income of the deceased had not been proved and, therefore, on notional basis, following the guidelines laid down in the Second Schedule, assessed the income of the deceased at Rs.15,000/- per annum. In my view, this is highly improper. The Learned Claims Tribunal must be alive to the situation on the spot. A 40 years old man with a wife and 6 minor children could not have survived only on a meager income of Rs.1,250/- per month. The claimants claimed that the deceased was a motor mechanic. Even assuming that the deceased was not a motor mechanic and was a labourer, in the year 2002, even a labourer would have earned more than Rs.100/- per day and, therefore, I assess the income of the deceased at Rs.100/- per day, i.e., Rs.3,000/- per month. Since the deceased was more than 40 years of age, 30% has to be added for his future prospects and, therefore, the income works out to Rs.3,900/- per month. The deceased left behind 7 heirs and, therefore, in this case, I will not deduct 1/3rd towards personal expenses of the deceased, but only deduct 1/5th towards the personal expenses and the 1/5th deduction leaves the dependency at Rs.3,120/- per month, say Rs.3,100/- per month or Rs.37,200/- per year. Since the deceased was more than 40 years of age, the relevant multiplier would be 15 and accordingly the compensation

works out to Rs.5,58,000/-. In addition thereto, the claimants are entitled to funeral expenses of Rs.12,000/- and the wife is entitled to loss of consortium of Rs.50,000/-.

5. The total compensation is, therefore, assessed at Rs.6,20,000/- (Rs.5,58,000 + Rs.12,000 + Rs.50,000). On this amount, the claimants are also entitled to interest @ 7.5% per annum from the date of filing of the claim petition till the payment/deposit of the full amount of compensation. Normally, this Court awards 9% interest, but in this case, 7.5% interest has been awarded because for more than 5 years the appeal was dismissed in default and, therefore, lesser rate of interest is awarded.

6. The amount of compensation is apportioned as follows:

Sl.No.	Claimants	Amount to be Disbursed (Rs.)
1	Widow	2,00,000
2	6 Children @ Rs.70,000/- each	4,20,000
Total =		6,20,000

7. Needless to say that the insurance company shall be entitled to adjust/deduct the amount, if any already paid or deposited by it.
8. The appeal is allowed in the aforesaid terms. The award of the Claims Tribunal is enhanced from Rs.1,50,000/- to Rs.6,20,000/- with interest as aforesaid.
9. It is directed that the certified copy of this judgment be supplied to the parties only after the aforesaid amendment is carried out by Learned Counsel for the Appellants.
10. Send down the record of the Claims Tribunal forthwith.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE