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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal No.729 of 2004

1. Tara Bai, widow of Ram Milan, Caste Kasera Soni, aged about 47 years, occupation Housewife,
2. Shiv Kumari, D/o Ram Milan, Caste Kasera Soni, aged about 12 years, Minor through Guardian mother (Appellant No.1)

Both are R/o Village Dumariya, Police Chowki Bhatgaon, P.S. Pratappur, Tahsil Surajpur, District Surguja, Chhattisgarh

---- Appellants

versus

1. Bhola @ Bhola Shankar, S/o Ram Keshwar, Caste Panika, aged about 22 years, occupation Driver, R/o Village Dhartipara, P.S. Jaynagar, Tahsil Surajpur, District Surguja, Chhattisgarh
2. Chhote Lal, S/o Dhanraj @ Dhansay, aged about 50 years, R/o Village Bundiya, Police Chowki, Bhatgaon, P.S. Pratappur, Tahsil Surajpur, District Surguja, Chhattisgarh
3. The Oriental Insurance Company Ltd., through Branch Manager, Branch Office Near Ambedkar Chowk, Ambikapur, District Surguja, Chhattisgarh
4. Mina Bai @ Ku. Bundaki Bai, D/o Ghasi Ram, aged about 21 years, Occupation Housewife, R/o Village Patpariya, P.S. Ambikapur, District Surguja, Chhattisgarh

---- Respondents

For Appellants	:	Shri Atanu Ghosh, Advocate
For Respondent No.3	:	Shri D.L. Dewangan, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

4.11.2016

1. This is an appeal filed for enhancement of compensation.

2. The undisputed facts of this case are that deceased Shivkumar died in a motor accident involving a tractor bearing registration No.CG 15A 0626 and trolley bearing registration No.CG 15A 0627. The claim petition was filed by his mother and sister. The Tribunal assessed the income of the deceased at Rs.4,000/- per month and deducted 1/3rd for personal expenses of the deceased and applying multiplier of 18 awarded compensation of Rs.5,83,072/-.

3. The main argument raised on behalf of the Appellants/claimants is that the future prospects have not been taken into consideration. If the future prospects are taken into consideration, 50% will have to be added to the income of the deceased because he was a young man of 25 years age. The income to be taken for assessment of the compensation would be Rs.6,000/- per month. However, when the claimants are not the wife and children, but are mother and sister of the deceased then two systems are followed. Either 50% is deducted for the personal expenses of the deceased in which case multiplier would be applied by taking into consideration the age of the deceased, but if 1/3rd is deducted then multiplier must be applied by taking into consideration the age of the deceased or the claimants, whichever is higher. In this case, there is no cogent proof with regard to the age of the mother and, therefore, I proceed to deduct 50% as the personal expenses of the deceased which leaves balance of Rs.3,000/- per month or Rs.36,000/- per year. On applying multiplier of 18 the compensation works out to Rs.6,48,000/-. The Claimants are held entitled to Rs.22,000/- for funeral expenses and the mother is also awarded Rs.30,000/- for loss of his son. Therefore, the total compensation is assessed at (Rs.6,48,000 + Rs.22,000 + Rs.30,000 =) Rs.7,00,000/-.

4. In view of the above, the appeal is allowed. The compensation is enhanced from Rs.5,83,072/- to Rs.7,00,000/-, i.e., by Rs.1,16,928/-. On the enhanced amount of Rs.1,16,928/-, the claimants shall also be entitled to get simple interest @ 9% per annum from the date of filing of the claim petition till the date of payment/deposit of the amount. The entire enhanced amount of compensation is to be paid to the mother only. The liability to pay the compensation shall be only on the owner and driver of the offending vehicle and the insurance company has not been held liable and the appeal filed by the owner has already been dismissed on 21.8.2012.

Sd/-

(**Deepak Gupta**)
CHIEF JUSTICE

Gopal