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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (C) No. 73 of 2007

1. Shanti Devi W/o Badak Prasad Prajapati aged about 50 years R/o Road No.18 Steel Nagar Jai Ma Durga Electricals Camp No.1 Bhilai District Durg Chhattisgarh

2. Badak Prasad Prajapati S/o Late Ram Lal aged about 55 years R/o Road No. 18 Steel Nagar Jai Ma Durga Electricals Camp No.1 Bhilai District Durg Chhattisgarh

---- Appellants

Versus

1. Rajendra Kumar S/o Santosh Kumar R/o Gangrel Colony Dhamtari District Dhamtari through Sukhvinder S/o Ranjeet Singh Pancharipara Durg Chhattisgarh

2. Sukhvinder Singh S/o Ranjeet Singh R/o Pachari Para Durg Chhattisgarh

3. The Regional Manager The New India Insurance Company In front of Project Auto Mobile Thakkar Chamber Power House Bhilai District Durg Chhattisgarh

4. Smt. Savita Devi W/o Late Surendra Prasad Prajapati aged about 26 years Resident at Adarsh Para In front of Poll No.30/65 Supela Bhilai District Durg Chhattisgarh

5. Ku. Sonu Prajapati D/o Late Surendra Prajapati aged about 4 years minor through her natural guardian Smt. Savita Devi W/o late Surendra Prasad Prajapati Resident at Adarsh Para In front of Poll No.30/65 Supela Bhilai District Durg Chhattisgarh

---- Respondents

For Appellants	: Shri Uttam Pandey, Advocate.
For Respondent/Insurance Company	: Shri Dashrath Gupta, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

02/12/2016

1. This appeal for enhancement of compensation is directed against the award dated 29.6.2005 passed by the Eighth Additional Motor Accident

Claims Tribunal, (F.T.C.) Durg in Claim Petition No.128 of 2004, whereby the learned Claims Tribunal awarded compensation of Rs.2,26,000/-.

2. This appeal has been filed by the parents of the deceased in which they have claimed that they have only awarded Rs.20,000/- each. That may not be correct but there is no clear cut apportionment of the award. It is the duty of the Tribunal while passing of an award to properly apportion the amount of compensation.

3. Section 168(1) of the Motor Vehicles Act, reads as follows:-

> **168. Award of the Claims Tribunal.**—(1) On receipt of an application for compensation made under section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of section 162 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be."

4. A bare reading of sub-section (1) of Section 168 of the Motor Vehicles Act shows that while making an award, the Motor Accident Claims Tribunal is to determine the amount of compensation which appears to it to be just and reasonable. The Motor Accident Claims Tribunal is also required to specify the person or persons to whom compensation shall be paid and the Claims Tribunal is to specify the amount which shall be paid by the insurer or owner of the driver of the vehicle involved in the accident. Therefore, it is the duty of the Claims Tribunal while making an award to clearly state that what is the total award of compensation, who is liable to pay the awarded amount and to whom the awarded amount is to be paid. This obviously means that the

Motor Accident Claims Tribunal must determine who is entitled to what amount.

5. In the present case, it was claimed that the deceased was aged about 30 years but the learned Claims Tribunal came to the conclusion that the deceased was aged about 30-35 years. This finding of the Claims Tribunal has not been seriously challenged before me. The serious challenge is to the income of the deceased. In the claim petition, it was claimed that the deceased was earning Rs.7,500/- per month and even otherwise, the Appellants led evidence to show that the deceased was serving as Supervisor in M/s. Archana Roadways Transport Company and was earning Rs.3000/- per month and daily allowance of Rs.50/- which worked out to Rs.4500/- per month. The learned Claims Tribunal held that since there were contradictory statements inasmuch as earlier, it was said that deceased was running PCO and working as Electrician and later, it was said that he was working in M/s. Archana Roadways Transport Company. The version of the claimants could not be believed. The learned Claims Tribunal was fully justified in not relying upon the statements of the claimants in this regard in view of the totally contradictory stand of the claimants before the Claims Tribunal which on the face of the record is totally false. However, the Learned Claims Tribunal gravely erred in assessing the income of the deceased at only Rs.15,000/- per annum.

6. Taking into consideration the fact that the accident took place on 17.3.2003 and in the year 2003, any grown up able bodied person would have earn at least Rs.150-200/- per day. Even a labourer during that period would have earned Rs.100/- per day. Therefore, the income of the deceased is assessed as Rs.120/- per day i.e. Rs.3600/- per month.

7. The deceased was aged less than 40 years and therefore, 50% has to be added to his income for future prospects i.e. Rs.1800/- per month. Therefore, the total income of the deceased would be assessed as Rs.5400/- per month. The deceased left behind his wife, minor child and parents, therefore, I deduct 1/3rd towards the personal expenses of the deceased i.e. Rs.1800/- and after deducting the same, the dependency of the family is assessed at Rs.3600/- per month i.e. Rs. 43,200/- per annum. Since the deceased was aged between 30-35 years, the relevant multiplier as per **Sarla Verma (Smt.) and Others v. Delhi Transport Corporation and another, (2009) 6 SCC 121**, would be 16 and the compensation for loss of dependency on this count works out to Rs.6,91,200/-.

8. In addition, the widow is awarded Rs.50,000/- for loss of consortium and the claimants are entitled to Rs.18,800/- towards funeral expenses and other post death expenses.

Therefore, the total compensation works out to Rs. (6,91,200 + 50,000 + 18,800) = Rs.7,60,000/- (rupees seven lakh sixty thousand).

9. 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.2,26,000/- to Rs.7,60,000/-, i.e. by Rs.5,34,000/-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount.

10. Needless to say that the Insurance Company shall be entitled to deduct/adjust the amount, which it already paid to the claimants. The compensation so awarded is apportioned as follows:-

Smt. Savita Devi (Widow)	Rs.3,00,000/-
Ku. Sonu Prajapati (daughter)	Rs.2,60,000/-
Smt. Shanti Devi (Mother)	Rs.1,50,000/-
Badak Prasad Prajapati (Father)	Rs.50,000/-

11. The appeal is disposed of in aforesaid terms.

Sd/-
(Deepak Gupta)
Chief Justice

Anu