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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (C) No. 687 of 2007

1. Parasuram S/o Mayaram, Aged about 50 years.
2. Bahadur Singh S/o Parasuram, Aged about 30 years.
3. Dhansai S/o Parasuram, Aged about 25 years.

All Caste Gond, R/o village Sagarpur, Post and PS Ramanujnagar, Tahsil Surajpur, District Sarguja, (Chhattisgarh).

---- Appellants

Versus

1. Branch Manager, The Oriental Insurance Company Limited, Ambedkar Chowk, Manendragarh, District Sarguja, Chhattisgarh.
2. Nathu Ram S/o Ganpat Ram, Aged about 30 years, Caste Rajwar, R/o village Ranpur, PS and Tahsil Ambikapur, District Sarguja, Chhattisgarh.
3. Babu Khan S/o Mohd. Israr Khan Aged about 45 years, Caste Musalman, R/o Bidar, PS Dudhi, District Sonbhadar, Uttar Pradesh, At present R/o Parradand, Ambikapur, District Sarguja, Chhattisgarh.

---- Respondent

For Appellant	:	Shri D.N.Prajapati, Advocate.
For Respondent No. 1	:	Shri H.B.Agrawal, Senior Advocate with Smt. Meera Jaiswal, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

02/12/2016

1. By this judgment, the appeal filed by the claimants as well as the cross objection (IA No. 2) filed by the Respondent-Insurance Company are being disposed of.

2. This appeal for enhancement of the compensation by the Appellants-claimants is directed against the award dated 28.03.2007 passed by the Motor Accident Claims Tribunal, Surguja (Ambikapur) (hereinafter called the Tribunal') in Motor Accidents Claims Case No. 100 of 2005 whereby the learned Tribunal awarded compensation of Rs. 1,10,000/- alongwith interest at the rate of 7.5% per annum.

3. Briefly stated, the facts of the case are that the claimants are the husband and major sons of deceased-Ram Bai. It is alleged that the deceased was aged about 45 years. She was earning a sum of Rs. 4000/- per month. According to the claimants, on 20.05.2005, at about 09:00 am, the deceased was travelling in the ill-fated vehicle i.e. Pickup Van bearing registration No. CG-15A-3651. The said vehicle was being by Respondent No. 3 in a rash and negligent manner because of which the vehicle toppled and the deceased came under the vehicle. She was taken to the hospital where she succumbed to the injuries on 25.04.2005.

4. In the claim petition, it was alleged that the deceased had gone to attend the wedding of her nephew and after the wedding, the items given in the wedding were being transported in the pickup van and the deceased had been engaged to look after those items being carried in the pickup van. The learned Tribunal held that the claimants were entitled to a sum of Rs. 1,10,000/- towards compensation. The Tribunal did not accept the contention of the Insurance Company that the deceased was a gratuitous passenger travelling in the goods vehicle.

5. First of all, let me take up the contention of the Insurance Company. According to the Insurance Company, the deceased was a gratuitous passenger in a goods vehicle. The claimants stepped in the witness box and stated that the deceased had been asked by her relatives to travel in the vehicle and look after the goods. Therefore, she cannot be termed to be a gratuitous passenger but was travelling as a representative of the owner of the goods being carried in the vehicle. Therefore, the cross-objection filed by the Insurance Company is rejected.

6. As far as enhancement of the compensation amount is concerned, according to the claimants, the deceased was aged about 45 years. This cannot be believed to be true because the claimant No. 2 at the relevant time was aged about 30 years. Therefore, the deceased should have been aged about 50 years and I decide accordingly. The deceased was a housewife but she belonged to an agricultural background and such women do help in household work. Therefore, I assess her contribution to the family at Rs. 2000/- per month. Since it is contribution to the family, no deduction is to be made. However, I am not inclined to believe that the major sons who are aged about 30 years and 25 years were dependent on their deceased mother. The only person who was really dependent was her husband i.e. Appellant No. 1. Thus, the total compensation works out to be Rs. 3,12,000 (Rs. 2000X12X13). In addition thereto, the husband is entitled to Rs. 50,000/- towards loss of consortium and Rs. 18,000/- is awarded towards funeral expenses. Thus, the total compensation works out to Rs. 3,80,000/-.

7. The total compensation, therefore, is assessed at Rs. 3,80,000/- (3,12,000+50,000+18,000). The award is accordingly enhanced from Rs.1,10,000/- to Rs. 3,80,000/- i.e. by Rs. 2,70,000/-. The claimant shall also be entitled to interest on the enhanced sum of Rs. 2,70,000/- @ 9% per annum from the date of filing of the claim petition till deposit of the amount. The Insurance Company is directed to deposit the enhanced amount of compensation alongwith proportionate interest thereupon in the Registry of this Court within four months from today. Needless to say that the Insurance Company shall be entitled to adjust the amount(s), if any, which it has already paid or deposited.

8. The total amount of compensation i.e. Rs. 3,80,000/- is however, apportioned as follows:

(a) Parasuram	Rs. 3,00,000/-
(b) Bahadur Singh	Rs. 40,000/-
(c) Dhansai	Rs. 40,000/-

9. The appeal is disposed of in the aforesaid terms.

10. Send down the lower Court records forthwith.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Amit