

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1221 of 2008**

1. Smt. Radha Bai, Wd/o. Baliram @ Babla, aged about 35 years,
2. Beena Yadav, D/o. Baliram @ Babla Yadav, aged about 19 years,
3. Ku. Hemin Yadav, D/o. Baliram @ Babla Yadav, aged about 16 years,
4. Ku. Leela Yadav, D/o. Baliram @ Babla Yadav, aged about 14 years,
5. Kishore Yadav, S/o. Baliram @ Babla Yadav, aged about 17 years,
6. Khelu Yadav, S/o. Baliram @ Babla Yadav, aged about 7 years,

Appellants No. 3 to 6 are Minors through their legal guardian mother Radha Bai (Appellant No.1)

7. Rugu Yadav, S/o. Pilu Yadav, aged about 65 years,
8. Bhaktin Yadav, W/o. Rugu Yadav, aged about 62 years,

All are R/o. Village Temari, P.S. Nandghat, Tahsil Nawagarh, District Durg, Chhattisgarh

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1. Santan Kumar, S/o. Bhakul Ram Sahu, aged about 37 years, R/o. Village Temari, P.S. Nandghat, Tahsil Nawagarh, District Durg Chhattisgarh
2. The Oriental Insurance Co. Ltd. Divisional Office Near Bus Stand Bilaspur, District Bilaspur, Chhattisgarh

----Respondents

For Appellants	:	Mr. D. Kushwaha, Advocate under instruction of Mr. Pushpendra Patel, Advocate
For Respondent No.2	:	Mr. Raj Awasthy, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****19/09/2017**

1. Present is an appeal under Section 173 of Motor Vehicles Act. The appeal is by the claimants seeking enhancement of the award dated 28.04.2008, passed by the Additional Motor Accident Claims Tribunal, Bemetara, District Durg, Chhattisgarh, in Claim Case No. 75/2007. Vide the impugned award the Tribunal has granted a compensation of Rs.4,66,260/- with interest @ 6% per annum.
2. The counsel for the appellant submits that the Tribunal has committed an error in not assessing the future income towards

quantification of compensation. Likewise, the compensation paid under the conventional head is also on the lower side and therefore, the same require suitable modification.

3. The counsel for the Insurance Company however opposes the appeal and submits that it is a claim case of the year 2008 and that the findings of the Tribunal is based on the evidence which have come on record and therefore the impugned award being just and reasonable does not warrant any interference.
4. Having considered the contentions put forth on either side and on perusal of the record, undisputedly in the instant case the Tribunal has not taken into account the income under the future prospects while quantifying the compensation.
5. The Hon'ble Supreme Court right from the judgment of **"Sarla Verma & Ors vs Delhi Transport Corp. & Anr"** (2009) 6 SCC 121) as also all subsequent judgments including that of **"Rajesh and others vs. Rajbir Singh and others"** (2013(9) SCC 54), it has been constantly held that while quantifying the compensation the income under the future prospects also has to be taken into account. Considering the age of the deceased to be 40 years, the future income to be added would be 50% of the monthly income, which has been assessed by the Tribunal. Since in the instant case, the Tribunal has assessed Rs.3,600/- as his monthly income 50% of which is Rs.1,800/-. Adding the two figures would make it Rs.5,400/- as the monthly income and Rs.64,800/- as the yearly income.
6. Considering the total number of claimants in view of the law laid down by the Hon'ble Supreme Court right from Sarla Verma (supra) and all subsequent decisions, the deductions towards the personal expenses if the claimants are more than 5 would be 1/5th of his income. Accordingly if 1/5th of his annual income of Rs.64,800/- is deducted, the net figure would be Rs.51,840/-, which if multiplied by applying the multiplier of 15, the amount reaches at Rs.7,77,600/-. It is ordered accordingly that the claimants shall be entitled for an amount of Rs.7,77,600/- as loss of dependency.
7. Further when we look into the record, the Tribunal has awarded a compensation of Rs.12,260/- towards medical expenses, this Court

does not find any strong case to interfere with the said amount awarded. As far as the compensation under conventional head is concerned, considering the judgment of the Hon'ble Supreme Court in the case of Rajesh (supra), this Court is of the opinion that lump sum of Rs.1,00,000/- would meet ends of justice instead of Rs.22,000/- as has been awarded by the Tribunal. If Rs.1,00,000/- is added to the aforesaid figure, the total amount of compensation payable to the appellant shall be Rs.8,89,860/- instead of Rs.4,66,260/-. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal. The remaining part of the award inclusive of interest shall remain stayed. The payment of gravity shall remain upon the owner and driver.

8. The appeal thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved