

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 492 OF 2010

1. Smt. Bismat Bai Sahu, W/o Late Horilal Sahu, aged about 50 years, occupation-housewife
2. Neelkanth Sahu, S/o Late Horilal Sahu, aged about 30 years
Both R/o Village- Khamtarai, Post- Gullu, Police Station & Tahsil- Arang, District Raipur (C.G.)

... Appellants

versus

1. Balram Dhruv, S/o Jeevan Dhruv, aged about 35 years, occupation-Driver, R/o Village- Paragaon, Police Station & Tahsil- Arang, District Raipur (C.G.)
2. Mohan Pal, S/o Kunjram Pal, aged about 40 years, occupation-Truck owner, R/o Village- Paragaon, Police Station & Tahsil- Arang, District Raipur (C.G.)
3. The New India Insurance Company Limited, Branch Office (450301), through Divisional Manager, Divisional Office, 2nd Floor, R.D.A. Building, Raipur, Tahsil & District Raipur (C.G.)

... Respondents

For Appellants	:	Mr. Suresh Tandon, Advocate, under instructions of Mr. Dharmesh Shrivastava, Advocate.
For Respondents 1 & 2	:	Mr. Bharat Sharma, Advocate, under instructions of Mr. Manoj Paranjpe, Advocate.
For Respondent 3	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/10/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act challenging the award dated 18.11.2009 passed by the First Additional Motor Accident Claims Tribunal, Raipur, in Claim Case No. 42/2009.
2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166/140 of the Motor Vehicles Act, has awarded a compensation of Rs. 13,29,572/- to the appellants-claimants with interest thereon at the rate of 6% per annum from the date of claim application.
3. The present is an appeal by the claimants seeking enhancement of the compensation awarded, on the ground that the compensation awarded by the learned Tribunal is on the lower side inasmuch as the deduction made towards the personal expenses as also the multiplier applied is not

in accordance with the principles of law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma (Smt.) and others v. Delhi Transport Corporation and Another, 2009 (6) SCC 121**. Further contention is that the compensation awarded under the conventional head is unreasonably low and thus prayed for the amount to be suitably enhanced.

4. Learned counsel for respondent no.3-insurance company however opposing the appeal submits that the amount of compensation awarded is just, fair and reasonable and the same does not warrant any interference as the impugned award is based on the evidence which have come on record.

5. Having considered the rival contentions put forth on either side and on perusal of record, what is reflected is that the insurance company had challenged the same impugned award vide MAC No. 409/2010 which stood dismissed vide order dated 22.9.2010 passed by a Division Bench of this High Court.

6. So far as the present appeal is concerned, the limited issue which is to be considered is, whether the deduction made by the learned Tribunal towards the personal expenses and the multiplier applied is proper and justified or not. The Hon'ble Supreme Court in the case of **Sarla Verma** (supra) so far as the deduction towards personal expenses is concerned has categorically held that if the deceased person was married, the deduction to be made is 1/3rd whereas in the present case the learned Tribunal has deducted half of the income towards personal expenses instead of 1/3rd. Likewise the Hon'ble Supreme Court so far as the multiplier is concerned in the same judgment has held that if the deceased person's age is under the bracket of 56 to 60 years, the multiplier which would be applicable would be 9 whereas in the instant case the learned Tribunal has applied the multiplier of 8.

7. Accordingly, accepting the yearly income, as assessed by the learned Tribunal, at Rs.3,29,268/-, if 1/3rd i.e. Rs.1,09,756/- of the same is deducted, the balance amount would come to Rs.2,19,512/- which if multiplied by applying the multiplier of 9, the same would come to Rs.19,75,608/-. It is thus ordered that the claimants shall be entitled for an amount of Rs.19,75,608/- towards loss of dependency.

8. So far as the compensation awarded under the conventional head is concerned, considering the total facts and circumstances of the case and also keeping in view the decision of the Hon'ble Supreme Court in the case of **Rajesh and Others v. Rajbir Singh and Others, 2013 (9) SCC 54**, this Court quantifies the compensation under this head all inclusive of Rs.1,00,000/- instead of Rs.12,500/- which has been awarded by the learned Tribunal.

9. The claimants thus shall be entitled for a total compensation of Rs.20,75,608/- instead of Rs.13,29,572/- which has been awarded by the learned Tribunal.

10. As a result, the appeal is allowed and the impugned award stands modified to the extent that the claimants shall be entitled for a total compensation of Rs.20,75,608/- with interest thereon at the same rate as has been quantified by the learned Tribunal. Rest of the award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge