

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.1227 of 2010

1. Phoolmati @ Phoolmatia W/o Late Joku Lal Gond, Aged about 35 years.
2. Suresh S/o Late Joku Lal Gond, Aged about 19 years.
Both are R/o village Chirmi, Majhapara, Tahsil – Manendragarh, District Korea (C.G).

---Appellants

Versus

1. Jagmohan S/o Shri Ramfal, R/o Village Parmeshwarpur, P.S.Ramanujnagar, Tahsil – Surajpur, District Sarguja (C.G)
2. Rajeshwarpuri S/o Lalapuri, R/o Village – Chirmi, P.S.Khadganwa, Tahsil – Manendragarh, District Korea (C.G)
3. Branch Manager, Ifko Tokiyo, General Insurance Company Limited, 84, Narmada Road, Near Gas Agency, Jabalpur (M.P.)

---Respondents

For Appellants	:	Shri Anil Gulati, Advocate
For respondent No.3/ Insurance Company	:	Shri Amrito Das along with Shri P.Acharya, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/10/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act assailing the award dated 30/11/2009 passed by the Additional Motor Accident Claims Tribunal, Manendragarh, District Korea (C.G) in Claim Case No.47/2008. Vide the said impugned award, the Tribunal in a Claim Case under Section 166 has awarded compensation of Rs.1,20,000/- along with interest @ 6% per annum from the date of application.
2. The counsel for the appellants submits that, it is a case where the Tribunal has taken into account the income which is unreasonably low while quantifying the compensation. He further submits that, it is a case where the death had occurred on 20/03/2008 where the minimum income of the deceased would had been much more than Rs.3,000/- per month

and that the notional income of Rs.12,000/- assessed by the Tribunal is unreasonably low. He further submits that, it is a case where the Tribunal has also not taken into account the income under future prospects. That the compensation under the conventional head has not been sufficiently awarded and prayed for the amount of compensation to be enhanced suitably.

3. The counsel for the Insurance Company however opposing the appeal submits that, the Tribunal has taking into account the evidences which have been brought on record passed a just and reasonable award and the same does not warrant any interference and prayed for dismissal of the appeal.

4. Having considered the contentions put forth on either side and on perusal of record undisputedly the deceased Joku Lal, aged around 40 years was working as a labourer, the period of accident being March-2008, the minimum wages of an unskilled labour also would had been more than Rs.3,000/- per month that would make it Rs.36,000/- yearly.

5. This court is of the opinion that, the income assessed by the Tribunal is definitely on the lower side and for all practical purposes, the income of the deceased for the purpose of quantifying the compensation should had been accepted at Rs.36,000/- yearly. It is ordered accordingly. The claimants are also entitled for income under future prospects while quantifying the compensation. Considering the age of the deceased, it would had been 50% of his yearly income i.e. Rs.18,000/- which makes the yearly income of the deceased at Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the amount left is Rs.36,000/- which if multiplied by applying multiplier of 15 considering the age of the deceased to be around 40 years, the amount would come to

Rs.5,40,000/-. It is ordered accordingly that the claimants shall be entitled for compensation towards loss of dependency of Rs.5,40,000/- instead of Rs.1,86,000/- as assessed by the Tribunal.

6. So far as compensation under the conventional head is concerned considering the entire factual matrix of the case this court is of the opinion that, keeping in view the judgment of the Hon'ble Supreme Court in the case of ***Rajesh & Ors. Vs. Rajbir Singh & Ors. [2013 {9} SCC 54]***, ends of justice would meet if the claimants would be granted a lump sum compensation of Rs.1,00,000/- under the conventional head.

7. Thus, the claimants shall be entitled for total compensation of Rs.6,40,000/- instead of Rs.1,20,000/- as awarded by the Tribunal. The said amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. The appeal stands allowed and disposed off.

**Sd/-
(P. Sam Koshy)
Judge**

Sumit