NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1078 OF 2010

1. Smt. Rajinder Kaur, W/o Late Surendra Singh Chawla, aged about 49 years
2. Inder Pal Singh, S/o Late Surendra Singh Chawla, aged about 25 years
3. Harpal Singh, S/o Late Surendra Singh Chawla, aged about 23 years
4. Maninder Singh, S/o Late Surendra Singh Chawla, aged about 21 years
   All R/o P.O.- Kharora, P.S. - Kharora, District Raipur (C.G.)

… Appellants

versus

1. Gokul Nayak, S/o Paddu Nayak, R/o Jagriti Nagar, beside Railway Line, Raman Mandir Ward, Raipur, P.R.W.R.S. Colony, Raipur, P.S. - Khamtarai, District Raipur (C.G.)
2. M/s Timothi Travels, through St. Xavier High School, Labhandi Ravigram, P.O. Krishak Nagar, District Raipur (C.G.)
3. Officer In-charge, St. Xavier High School, Labhandi Ravigram, P.O.- Krishak Nagar, District Raipur (C.G.)
4. National Insurance Company Limited, through Regional Manager, National Insurance Company Limited, G.E. Road, Raipur, District Raipur (C.G.)

… Respondents

For Appellant :	Mr. Pragalbh Sharma, Advocate.
For Respondent No.4 :	Mr. Goutam Khetrapal and Mr. Avinash Chand Sahu, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/10/2017

1. The present is a claimants' appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the compensation awarded by the 10th Additional Motor Accident Claims Tribunal, Raipur, vide its award dated 21.7.2010 passed in Claim Case No. 66/2009.

2. Vide the impugned award dated 21.7.2010, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, in a death case, has awarded a compensation of Rs.2,67,000/- to the appellants-claimants, with interest thereon at the rate of 6% per annum from the date of filing of the claim application.

3. The undisputed facts of the case are that :

(i) The deceased-Surendra Singh Chawla was died in a vehicular accident occurred on 9.8.2007 by Bus No. CG04/G/3399.

(ii) Respondent no.1 was the driver, Respondent no.2 was the owner, Respondent no.3 was the controller/manager and Respondent No.4 was the insurer of the offending Bus.

(iii) Appellant No.1 is the wife and Appellants No. 2 to 4 are the descendants of the deceased-Surendra Singh Chawla.

4. Learned counsel for the appellants-claimants submits that the Tribunal while quantifying the compensation has not properly taken into consideration the income tax return submitted. He further submits that the Tribunal has erred in not appreciating the fact that the deceased was an income tax payee and for the assessment years 2007-08 and 2008-09, the income of the deceased has increased manifold and his income has been shown at more than Rs.25.00 Lakh for the assessment year 2007-08 and more than Rs.50.00 Lakh for the assessment year 2008-09. He thus prayed for the compensation amount to be suitably enhanced. That the deceased was into the business of Transport and making good money.

5. Learned counsel for respondent no.4-insurance company on the other hand referred to the finding of the Tribunal where it had doubted the income tax return submitted. He further submits that the Tribunal has rightly assessed the notional income of the deceased at Rs.30,000/-. He accordingly prayed for the rejection of the appeal.

6. Considering the facts and circumstances of the case particularly the evidence on record, even if we doubt the income tax return for the assessment years 2007-08 and 2008-09, the income tax return of the assessment year 2006-07 shows the income of the deceased to be about Rs. 7.88 Lakh. If assuming this also to be at a higher side or an inflated return submitted by the deceased for business purpose, this Court is of the opinion that taking into consideration the fact the deceased was a businessman and that the accident being of the year 2007, the minimum income which the deceased would have earned a month would be nothing less than Rs.7000/- which makes the yearly income to be Rs.84,000/-.

7. It is thus ordered that, for the purpose of quantifying the compensation, this Court assesses the monthly income of the deceased at Rs.7000/- and yearly Rs.84,000/-, instead of Rs.30,000/- as was assessed by the Tribunal.

8. If 30% of Rs.84,000/-, i.e. Rs.24,200/- is added towards the future prospects, it would come to Rs.1,09,200/- of which if 1/3rd, i.e. Rs.36,400/-, is deducted towards the personal expenses, the amount would become Rs. 72,800/- which further if multiplied by applying the multiplier of 13, the total figure would become Rs. 9,46,400/-.

9. It is accordingly ordered that the claimants shall be entitled for an amount of Rs.9,46,400/- towards the loss of dependency, instead of Rs.2,60,000/- which has been awarded by the Tribunal.

10. Considering the fact that accident is of the year 2007, this Court is of the opinion that a lump sum compensation of Rs.55,000/-, instead of Rs.7000/- as awarded by the Tribunal, under the conventional heads, would meet the ends of justice.

11. It is thus ordered that the claimants shall be entitled to receive a total compensation of Rs.10,01,400/-, which is rounded off at Rs.10,00,000/-, instead of Rs.2,67,000/- which has been awarded by the Tribunal.

12. In the result, the appeal is allowed and the impugned award stands modified to the extent that the appellants-claimants are entitled to get a total compensation of Rs.10,00,000/- along with interest thereon at the same rate as has been awarded by the Tribunal. Rest of the award remains intact.

Sd/-
(P. Sam Koshy)
Judge

/sharad/