

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1106 OF 2017

Sarodhan Singh Bhaina, S/o Deenbandhu Bhaina, aged about 26 years,
R/o Village Kargikhurd Ghatouli, P.S. Pendra, District Bilaspur (C.G.)

... Appellant

versus

1. Dr. Vishal Kalwani, S/o Dr. I.D. Kalwani, aged about 45 years, R/o Village Sumangal Apartment, Phase-II, Flat No. FF 404, Link Road, Bilaspur, District Bilaspur (C.G.)
2. Dr. Smt. Rikki Kalwani, W/o Dr. Vishal Kalwani, aged about 40 years, R/o Village Sumangal Apartment, Phase-II, Flat No. FF 404, Link Road, Bilaspur, District Bilaspur (C.G.)
3. ICICI Lombard General Insurance Co. Ltd., Office No. SO-5, V.R. Plaza, IInd Floor, Link Road, Bilaspur, District Bilaspur (C.G.)

... Respondents

For Appellant	:	Mr. Rakesh Pandey, Advocate.
For Respondents No. 1 and 2	:	Mr. Sushil Sahu, Advocate.
For Respondent No.3	:	Mr. Amrito Das and Mr. K. Rohan, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/11/2017

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the award passed by the Additional Motor Accident Claims Tribunal, Bilaspur, on 9.9.2016, in Motor Accident Claim Case No. 21/2015.
2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.1,15,000/- to the claimant with interest thereon at the rate of 6% per annum from the date of presentation of the claim application and fastened the liability for payment of compensation upon the insurance company indemnifying the owner and driver of the offending vehicle.
3. Learned counsel for the appellant-claimant submits that the compensation awarded in the instant case is on the lower side and the same deserves to be suitably enhanced. He refers to the decisions of the

Hon'ble Supreme Court reported in **2014 (1) SCC 244** titled as "**Kishan Gopal & Anr. v. Lala & Ors.**" and **2001 (8) SCC 197** titled as "**Lata Wadhwa & Ors. v. State of Bihar & Ors.**".

4. Learned counsels appearing for the respective respondents however oppose the appeal on the ground that the award passed by the Tribunal seems to be just and reasonable and same therefore does not warrant any interference.

5. Considering the factual aspect of the case, this Court is inclined to accept the submission put forth by the learned counsel for the appellant. Therefore, relying upon the decisions which have been relied upon by the learned counsel for the appellant, both in the case of **Kishan Gopal** (supra) and **Lata Wadhwa** (supra), this Court is inclined to enhance the compensation in terms of the decisions of the Hon'ble Supreme Court in the case of a child aged less than 10 years of age.

6. This Court thus quantifies the compensation payable at Rs.1,50,000/- and the compensation under the conventional heads at Rs.50,000/-, making the total compensation payable to the claimant at Rs.2,00,000/- instead of Rs. 1,15,000/- as awarded by the Tribunal.

7. The impugned award stands modified to the extent that appellant-claimant shall be entitled to get a total compensation of Rs. 2,00,000/- with interest thereon at the same rate as has been imposed by the learned Tribunal.

8. The appeal stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge