

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 1274 of 2017**

The New India General Insurance ( Assurance ) Company Limited  
Branch Office First Four Madina Building, Kachahari Chowk, Raipur,  
Chhattisgarh, Through Authorized Signatory For The New India  
Assurance Company Limited Bilaspur, Divisional Office, Opposite  
Rajiv Plaza Old Bus Stand Road Bilaspur, Chhattisgarh

**---- Appellant**

**Versus**

1. Smt. Baleshawari Netam Wd/o Late Manoj Netam, Aged About 27 Years
2. Minor Ku. Uwasi Netam D/o Late Manoj Netam, Aged About 01 Year 06 Months, Through Mother Smt. Baleshawari Netam (Res.No.1)
3. Deendayal Netam S/o Late Chattar Singh Netam, Aged About 55 Years
4. Smt. Phoolbai W/o Deendayal Netam, Aged About 54 Years  
All above R/o Village Karap (Dehanpara) Post Bundeli, P.S. Kanker,  
Tahsil Narharpur, District Uttar Bastar Kanker, Chhattisgarh .....  
(Claimants)
5. Avtar Singh S/o Nisan Singh, Aged About 38 Years R/o Jora Chitran,  
P.S. & District Gurdaspur (Punjab) Presently Resident Satguru  
Service Ring No.2, Tatibandh, Raipur, P.S. Amanaka, District Raipur,  
Chhattisgarh .....(Driver)
6. Baljeet Singh S/o Laskar Singh, R/o Satguru Teller Service Ring  
No.2, Tatibandh, Raipur, P.S. Amanaka, District Raipur,  
Chhattisgarh .....(Owner)

**---Respondents**

|               |   |                          |
|---------------|---|--------------------------|
| For Appellant | : | Mr. B.N. Nande, Advocate |
|---------------|---|--------------------------|

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**12/12/2017**

1. Heard on I.A. No.2, which is an application for condonation of delay.  
For the reasons assigned in the application and finding them to be  
satisfactory, I.A. No.1 is allowed and delay of 02 days in filing the  
appeal stands condoned.
2. Present is an appeal by the Insurance Company under Section 173  
of the Motor Vehicles Act. The challenge is to the award dated  
19.05.2017, passed by the Additional Motor Accident Claims Tribunal

(FTC), North Bastar, Kanker, Chhattisgarh, in Claim Case No. 16/2016. Vide the impugned award the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.42,38,630/- with interest @7% per annum from the date of application.

3. The counsel for the Insurance Company submits that the challenge is only on the quantum of compensation awarded. According to the counsel, the Tribunal has not properly appreciated the income of the deceased while quantifying the compensation. According to him the Tribunal has taken the gross income of the deceased while quantifying the compensation, whereas it ought to have deducted the deduction which were made from the gross income, which would not fall part of the wages and thus prayed for the award to be suitable modified. He further submits that the deduction towards the personal expenses of  $\frac{1}{4}^{\text{th}}$  of the income again is on the higher side as the respondent No.1 the widow of the deceased was already an employed person and therefore she cannot be treated as dependent on the income of the deceased and the deduction thus should had been  $\frac{1}{3}^{\text{rd}}$  instead of  $\frac{1}{4}^{\text{th}}$ . It was further contended that the income tax was not deducted from the income of the deceased while computing the compensation.
4. A perusal of the record would show that Exhibit P/3 was the salary certificate of the deceased and that the gross income which was shown in the same was Rs.31,138/-.
5. On perusal of the said document found that the net salary payable to the deceased was more than Rs.28,000/- and the deduction made was towards the G.P.F. and the insurance, both of which would also

be part of the income as this amount would ultimately be payable to the deceased on his superannuation.

6. In the given circumstances, this Court does not found any error on the part of the Tribunal in accepting the salary of Rs.31,138/- as the income of the deceased, while quantifying the compensation. Moreover, it also appears that the Tribunal has not taken the income under the future prospects while quantifying the compensation.
7. In the given facts and circumstances of the case, this Court does not find the compensation awarded to be on the higher side or exorbitant calling for an interference, particularly taking note of the fact that the deceased was working as a Constable in the police department and that he was aged only around 36 years at the time of the accident.
8. The appeal thus fails and is accordingly rejected.

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

Ved