

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1610 OF 2009

1. Smt. Komal @ Kalindri, age 28 years, W/o Late Shri Saheblal Ratre
 2. Ku. Manisha, age 11 years, minor, D/o Late Shri Saheblal Ratre
 3. Yuvraj, age 9 years, minor, S/o Late Shri Saheblal Ratre
 4. Mannu, age 7 years, minor, S/o Late Shri Saheblal Ratre
- Respondents No. 2 & 3 are minor children being represented by the appellant no.1/mother in relation
5. Adang Ratre, age 70 years, S/o Late Shri Kendra Ratre
 6. Smt. Aghan Bai, age 65 years, W/o Shri Adang Ratre
- All the above are R/o Village-Balsi, Post Kendudhar, P.S. & Tahsil-Saraipali, District Mahasamund (C.G.)

... Appellants/Claimants

Versus

1. Abdul Raza, age 35 years, S/o Late Shri Abdul Rahman, R/o near Kota Masjid, P.S. Amanaka, Tahsil & P.S. Amanaka, District Raipur (C.G.)
(Driver of Matador No. CG04/G/2788)
2. The Commissioner, Municipal Corporation, Raipur, Malviya Road, Raipur, Tahsil & District Raipur (C.G.)
(Owner of Matador No. CG04/G/2788)

... Respondents

For Appellant	:	Mr. J.A. Lohani, Advocate.
For Respondent No.2	:	Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/09/2017

1. The present is a claimants' appeal under Section 173 of the Motor Vehicles Act, 1988, seeking for enhancement of the compensation awarded by the Chief Motor Accident Claims Tribunal, Mahasamund, in Claim Case No. 57/2009.
2. Vide the said impugned award, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, has granted a compensation of Rs.4,36,000/- to the claimants with interest thereon at the rate of 6% per annum from the date of filing of the claim application.
3. Learned Counsel for the appellants-claimants submits that the Tribunal has erred in not taken into consideration the future prospects as a component while quantifying the compensation and that the multiplier

applied also is not in accordance with the decision of the Hon'ble Supreme Court in **Sarla Verma (Smt.) and others v. Delhi Transport Corporation and Another, 2009 (6) SCC 121**, lastly the amount of compensation awarded under the conventional heads also is unreasonably low and thus prayed for a suitable enhancement of the compensation awarded.

4. Learned Counsel for respondent no.2-municipal corporation however opposing the appeal submits that they have also opposed the appeal by moving an application under Order XLI Rule 22 of the Code of Civil Procedure questioning the impugned award.

5. So far as the cross-objection of the municipal corporation is concerned, this Court does not find any merit in the said application, for the reason that no specific ground has been raised by the municipal corporation seeking for the setting aside of the impugned award except for the fact that the application under Order IX Rule 13 of the Code of Civil Procedure has been rejected by the Tribunal. The cross-objection does not disclose any ground on which they dispute the claim of the claimants nor have they raised any objection so far as the tenability of the claim application. In view of the same, the cross-objection deserves to be and is accordingly rejected.

6. So far as the claim of the appellant-claimants for enhancement of compensation is concerned, there is a series of decisions rendered by the Hon'ble Supreme Court right from the case of **Sarla Verma (Smt.) and others v. Delhi Transport Corporation and Another, 2009 (6) SCC 121** to **Rajesh and Others v. Rajbir Singh and Others, 2013 (9) SCC 54**, where the Apex Court has repeatedly held that for the purpose of quantification of compensation, income under the future prospects also should be taken into consideration. Accordingly, accepting the income assessed by the Tribunal at Rs.4500/- if we add 50% of the said amount

towards monthly income under the head of future prospects, the amount would become Rs.6750/- which if multiplied by 12 would make the yearly income of the deceased at Rs.81,000/- of which considering the total number of claimants, i.e., 6 in number, if 1/4th is deducted towards the personal expenses, the total amount left would be Rs.60,750/- which on applying the multiplier of 17, as as been laid down by the Hon'ble Supreme Court in **Sarla Verma** (supra), the total compensation payable to the claimants would be Rs.10,32,750/-. It is accordingly ordered that the claimants shall be entitled for an amount of Rs.10,32,750/- towards the loss of dependency, instead of Rs.4,32,000/- as was quantified by the Tribunal.

7. Likewise, so far as the amount awarded by the Tribunal under the conventional heads is concerned, this Court has no hesitation in holding that the amount of Rs.2000/- awarded towards funeral expenses and Rs.2000/- towards loss of consortium, that is, total Rs.4000/-, is unreasonably low and the same deserves to be enhanced. Keeping in view the decision of the Hon'ble Supreme Court in the case of **Rajesh** (supra), this Court awards a lump sum compensation of Rs.1,25,000/- under these heads.

8. Accordingly, it is ordered that the claimants shall be entitled for a total compensation of Rs.11,57,750/-, instead of Rs.4,36,000/- which was awarded by the Tribunal, along with interest thereon at the same rate as has been awarded by the Tribunal.

9. The appeals thus stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge