

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**Review Petition No.149 of 2017**

1. Bhishma Deo Patel S/o Tribhuwan Patel Aged About 45 Years
 2. Smt. Lalita Patel W/o Bhishma Deo Patel Aged About 43 Years
 3. Ku. Meena D/o Bhishma Deo Patel Aged About 20 Years
- All are R/o Village Badegumda Thana Gharghoda District Raigarh Chhattisgarh.

----Petitioners**Versus**

1. Guru Mehar Construction Company Limited Through Manager Office At Village Singhol , Post Amaghat, Tahsil Gharghoda District Raigarh Chhattisgarh.
2. Mohd. Mustafa, S/o Mohd Usman Khan Aged About 50 Years Occupation Driver, R/o Village Madhuwanpara , Raigarh , Tahsil and District Raigarh Chhattisgarh.
3. Afroz Iqbal S/o Mohd. Jafruddin Aged About 33 Years Occupation Owner of The Vehicle R/o Handi Chowk Raigarh Tahsil and District Raigarh Chhattisgarh.
4. Branch Manager The Oriental Insurance Company Limited , Branch Office Itwari Bazar Raigarh Chhattisgarh.

---- Respondents

For Petitioners	:	Shri MK Baeg, Advocate.
For Respondents 1&2	:	Shri Vivek Tripathi, Advocate.
For Respondent No.3	:	Shri AL Singroul, Advocate.
For Respondent No.4	:	Shri D.L Dewangan, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****12.12.2017**

1. The present review petition has been filed seeking for modification of award dated 04.10.2017 passed by this court in MAC No.687 of 2010 and other connected appeals.
2. Learned counsel for the petitioners submits that in the appeal which was preferred by the owner i.e. MAC No.687 of 2010, the present petitioners-claimants had also preferred cross objection seeking for enhancement of compensation. It is a case where the deceased Arun

Kumar, aged about 18 years was a bachelor and his income assessed by the Tribunal was Rs.15000/- per annum.

3. According to learned counsel for the petitioners-claimants, the compensation awarded is on lower side and the same ought to have been much more than what has been awarded. He submits that the notional income also is unreasonably low considering the fact that accident occurred in May, 2007. He had pressed for cross objection and it was also considered by this court, but it appears that while passing the award this court has not dealt with the cross objection and amount has not been revised or re-considered for enhancement and prayed that the amount of compensation be suitably enhanced.
4. This aspect is not opposed by any of the counsel appearing for the respondents and they fairly submit that the present claimants had infact made his submissions so far as cross objection is concerned.
5. In view of the aforesaid submissions, this court is of the opinion that a strong case is made out for recalling of the award dated 04.10.2017 passed in MAC No.687/2010 and other connected appeals.
6. It is ordered accordingly. The impugned award dated 04.10.2017 stands modified to the extent of the cross objection of the claimants in MAC No. 687 of 2010 also being decided.
7. So far as enchantment of compensation is concerned, considering the date of accident i.e. May, 2007, the notional income assessed by the Tribunal at Rs.15000/-is unreasonably low. Indisputably during the relevant period even an unskilled labour would have been earning Rs.100/- per day which would bring monthly income at Rs.3000/-.

Thus, considering the period of accident this court assesses the monthly income of the deceased at Rs.3000/- accepting the minimum wages to be Rs.100/- per day.

8. Keeping in view the decision of larger Bench of Supreme Court in case of National Insurance Co. Ltd. Vs. Pranay Sethi, decided on 31.10.2017 in SLP(C)No.25590 of 2014, the claimants shall also be entitled for 40 percent of the income towards future prospects.
9. Accordingly, accepting the monthly income of the deceased at Rs.3000/- if 40 percent of it is added towards future prospects, the amount would reach to Rs.4200/- i.e. Rs.50,400/- yearly, of which if 50 percent is deducted towards personal expenses considering the fact that deceased was a bachelor, the income would come to Rs.25,200/-, which if multiplied applying the multiplier of 18, the compensation would reach to Rs.4,53,600/-. Thus, it is ordered that the claimants shall be entitled for Rs.4,53,600/- for loss of dependency.
10. Further, this court is of the opinion that the claimants shall also be entitled for a lump sum compensation of Rs.40,000/- under conventional heads keeping in view the ratio laid down in Pranay Sethi's case. Thus, the total compensation payable to the claimants would become Rs. 4,93,600/- It is ordered accordingly that the claimants in MAC No. 687 of 2010 shall be entitled for a total compensation of Rs.4,93,600/- instead of Rs.2,40,000/-.
11. The review application thus stands allowed and the award dated 04.10.2017 passed in bunch of appeals stands modified to the extent

that in MAC No. 687 of 2010 the cross objection filed by the present petitioners-claimants therein, stands allowed and they are entitled for a total compensation of Rs.4,93,600/- instead of Rs.2,40,000/-.

12. The enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal. The liability of payment of compensation shall remain upon the respondent No.1-Guru Mehar Construction Co.Ltd.
13. Let this order be made part of the appeals which have been decided on 04.10.2017 in MAC No.687 of 2010 and other connected appeals.

Sd/-
(P. Sam Koshy)
Judge

inder