

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC. No. 337 of 2006

1. Smt.Dolkunwar Wd/o Hulas Ram Patel, aged about 40 years.
 2. Hulas Ram Patel S/o Bhagat Ram Patel, aged about 43 years.
 3. Ku.Janku Bai D/o Hulas Ram Patel, aged about 21 years.
 4. Ku.Nem Kumari D/o Hulas Ram Patel, aged about 14 years.
- Appellant Nos. 3 & 4 are represented by legal guardian mother Smt.Dolkunwar.
- All are R/o Shankarpara, VIII & Post Kodia, P.S.Seepat (Masturi), District Bilaspur (C.G.).

--- Appellants

Versus

1. Satyanarayan Pandey S/o Vyasnarayan Pandey, R/o Village Bandhawapara, Post Kodia, P.S.Seepat (Masturi), District Bilaspur (C.G.).
2. (A) Smt.Binda Devi D/o Late Ramjiwan Pandey, R/o Vill.Khapri, Takhatpur, Tah.Takhatpur, District Bilaspur (C.G.).
(B) Smt.Rajeshwari D/o Late Ramjiwan Pandey, R/o Kishore Nagar, Bilaspur, Tah & District Bilaspur (C.G.).
(C) Smt.Rama Bai D/o Late Ramjiwan Pandey, R/o Shankargarh, Shahdol.
(D) Smt.Shyam Bai D/o Late Ramjiwan Pandey, R/o Nayapara, Goalbazar, Raipur (C.G.).
3. The United India Insurance Co.Ltd., Through Divisional Manager, Divisional Office Bilaspur, Tah.& District Bilaspur (C.G.).

---Respondents

For Appellants	:	Shri A.L.Singroul, Advocate.
For Respondent No.3/ Insurance Company	:	Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/11/2017

1. Present is an appeal by the claimants under Section 173 of the Motor Vehicle Act assailing the award dated 24/12/2005 passed by the learned 8th Additional Motor Accident Claims Tribunal, Bilaspur in Motor Accident Claim Case No.67/2004.

2. The said impugned was challenged by the claimants in an appeal before the High Court which stood dismissed and where the SLP against this also has been dismissed on 22/03/2013. Hence, the liability part stands settled.
3. The limited question involved in the issue left to be decided in the instant case is whether the compensation awarded by the Tribunal is just and reasonable or it deserves enhancement?
4. The factual matrix of the case is undisputed so far as the accident which occurred on 16/05/2002, the resultant death of the deceased Lekhram Patel, aged around 18 years, the vehicle involved in the accident and the vehicle also being insured with the respondent No.3/Insurance Company.
5. The notional income taken by the Tribunal while assessing the compensation was Rs.15,000/- which according to the counsel for the appellant is extremely low and the same deserves suitable enhancement and computation be computed accordingly.
6. The counsel for the Insurance Company however opposing the appeal submits, that considering the fact that it is an appeal of the year 2006 and the age of the deceased was around 18 years, there is no possibility of his having performing any regular nature of work and therefore, the notional income of Rs.15,000/- assessed by the Tribunal is just and reasonable and prays for the dismissal of the appeal.
7. Having heard the contentions put forth on either side and on perusal of record, undisputedly, the deceased was aged around 18 years at the time of the accident and true it is that there is no sufficient proof of his employment. But in the year 2006, undisputedly, the minimum income of

even an unskilled labour would also had been around Rs.100/- per day making it Rs.3,000/- per month and Rs.36,000/- yearly.

8. Therefore, this court has no hesitation in assessing the notional income of the deceased also at Rs.36,000/- yearly instead of Rs.15,000/- as assessed by the Tribunal.

9. Accepting Rs.36,000/- as the annual income of the deceased and if 50% of the same is added towards future prospects, the amount would come to Rs.54,000/- of which if 50% is deducted towards personal expenses, the amount would come to Rs.27,000/- which if multiplied by applying multiplier of 18 (instead of 15 as assessed by the Tribunal), the amount would come to Rs.4,86,000/-. It is ordered accordingly, that the claimants shall be entitled for the compensation of Rs.4,86,000/-.

10. So far as the compensation under the conventional head is concerned, applying principles of law laid down by the Hon'ble Supreme Court in the case of ***Rajesh & Ors. Vs. Rajbir Singh & Ors.***[2013 {9} ***SCC 54***], this court quantifies the compensation under the conventional head at Rs.1,14,000/- to make the total compensation payable to the claimants at Rs.6,00,000/-. Thus, the claimants shall be entitled for total compensation of Rs.6,00,000/-. The said enhanced amount shall also carry interest at the same rate as awarded by the Tribunal.

11. The appeal stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge