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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 536 of 2017**

(Arising out of award dated 29.08.2016 in Claim Case No. 40/2015 of the learned Motor Accident Claims Tribunal, Jashpur)

1. Ramji Prasad Gupta S/o Shri Ghinhu Sao, Aged About 44 Years R/o Village Ghoghar, Tahsil Bagicha, District Jashpur, Chhattisgarh
2. Smt. Kunti Gupta W/o Shri Ramji Prasad Gupta, Aged About 41 Years R/o Village Ghoghar, Tahsil Bagicha, District Jashpur, Chhattisgarh
3. Upasana Gupta D/o Shri Ramji Prasad Gupta, Aged About 19 Years R/o Village Ghoghar, Tahsil Bagicha, District Jashpur, Chhattisgarh

---- Appellants**Versus**

1. Rajesh Kumar Banjare S/o Shri Pancharam Banjare, Caste Satnami, Occupation Vehicle Driver, R/o Church Road Kansabel, Police Station & Tahsil Kansabel, Distt. Jashpur, Chhattisgarh, Permanent Address- Jarhabhatha Mini Basti Bilaspur, Distt. Bilaspur, Chhattisgarh (Driver Of The Offending Vehicle Tanker Bearing Registration No. C.G.10 A 8261)
2. Ajit Tirkey S/o Shri Samuyel Tirkey, Aged About 52 Years Caste Uranv, Occupation Vehicle Owner, R/o Village Kansabel, Police Station & Tahsil Kansabel, Distt. Jashpur, Chhattisgarh (Owner Of The Offending Vehicle Tanker Bearing Registration No. C.G.10 A 8261)
3. Branch Manager, The Oriental Insurance Company Limited, Patthalgaon, Distt. Jashpur, Chhattisgarh (Insurer Of The Offending Vehicle Tanker Bearing Registration No. C.G.10 A 8261)

---- Respondents

For Appellants : Shri Rishi Rahul Soni, Advocate.
 For Respondent No. 3 : Shri Raghvendra Verma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/07/2017**

(1) This is claimants' appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Jashpur (for short 'the Tribunal') passed in Claim Case No. 40/2015 vide its award dated 29.08.2016.

(2) As against the compensation of Rs.84,70,000/- claimed by unfortunate parents & sister of deceased –Deepak Gupta, aged about 22 years, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short ‘the Act’) for his death on 01.01.2015 in the motor accident dated 23.12.2015, the Tribunal awarded a total sum of Rs. 6,38,967/- to the claimants along with interest @ 9 % per annum from the date of filing of claim petition till its actual payment.

(3) The Tribunal, on a close scrutiny of the evidence led, held: the accident had occurred due to rash and negligent driving of Tanker bearing registration No. CG 10A/8261 by its driver i.e. respondent No. 1- Rajesh Kumar Banjare; Deepak Gupta died on account of the injuries sustained by him in the said accident; respondent No. 3/insurance company liable for payment of compensation to the claimants as it could not establish violation of policy conditions and assessed and awarded aforementioned sum as compensation to the claimants.

(4) Shri Rishi Rahul Soni, learned counsel appearing for the appellant/claimant would submit that the Tribunal has fallen in error in assessing the income of the deceased as Rs.5,000/- per month and Rs.60,000/- per annum and thereby in awarding low amount of compensation of Rs.6,38,967/- which deserves to be suitably enhanced.

(5) On the other hand, Shri Raghvendra Verma, learned counsel appearing for the respondent No. 3/Insurance Company supported the award impugned.

(6) I have heard the learned counsel appearing for the parties and

perused award impugned.

(7) The facts that accident had occurred due to rash and negligent driving of driver of offending vehicle Tractor and that Deepak Gupta died on account of the injuries sustained by him in the said accident involving offending vehicle Tractor are now not in dispute.

(8) The deceased was 22 years old and was working as Manager in the Rice Mill. The Tribunal after assessing the income of deceased as Rs. 5,000 per month/- i.e. Rs.60,000 per annum, deducted 50% of it towards his personal expenses as the deceased was bachelor and applied multiplier of 18 and awarded Rs. 5,40,000/- (Rs.30,000 X 18) on account of loss of dependency. The Tribunal further awarded Rs. 50,000/- to the appellants No. 1 & 2 and Rs.25,000/- to the appellant No. 3 towards love & affection; Rs.20,000/- for funeral expenses; and Rs.3967/- towards medical expenses on the basis of bills & vouchers produced by the appellants; and thus has awarded a total sum of Rs.6,38,967/- as compensation to the claimants for the death of deceased – Deepak Gupta.

(9) The Tribunal, considering the income of the deceased as Rs.5,000/-per month i.e. Rs.60,000/- per annum, has awarded Rs.6,38,967/- as compensation to the claimants. In my opinion, that the Tribunal was not correct in assessing the amount of compensation by taking into consideration the income of the deceased as Rs.5,000/- per month only. Therefore, I propose to re-compute the amount of compensation by taking into consideration the income of the deceased as Rs.7,000/- per month i.e. Rs.84,000/- per annum.

(10) After deducting 50% of it towards personal expenses of

deceased, the claimants' annual dependency is assessed as Rs. 42,000/-. By multiplying the claimant's annual dependency of Rs. 42,000/- with the multiplier of 18 as applied by the Tribunal, the amount of compensation on account of loss of dependency would be Rs. 7,56,000/-. The claimants are further entitled for Rs. 1,54,000/- (Rs. 1,00,000/- towards love and affection + Rs.25,000/ for funeral expenses + Rs. 25,000 for loss of estate and Rs. 4,000 for medical expenses). The Tribunal further awarded Rs.10,000/- as a cost to the claimants, and thus, the claimants would become entitle for Rs. 9,20,000/- as compensation in place of Rs. 6,38,967/- as awarded by the Tribunal.

(11) In view of foregoing, the appeal is allowed in part. The compensation of Rs. 6,38,967/- awarded by the Tribunal is enhanced to Rs. 9,20,000/- i.e. Rs. 2,81,033/- over and above the amount awarded by the Tribunal.

(12) The enhanced amount of compensation of Rs. 2,81,033/- shall carry interest @ 9 percent per annum from the date of application till its actual payment. The award is modified to the above extent. Rest of the conditions mentioned in the award shall remain intact.

(13) The respondent No. 3/Oriental Insurance Company Ltd. is granted three months' time to deposit enhanced amount of compensation of Rs.2,81,033/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-