

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 787 of 2014

1. Smt. Sukhamati Bai W/o Late Ramu Sahu Aged About 31 Years
 2. Ku. Anita D/o Late Ramu Sahu Aged About 16 Years
 3. Kedar S/o Late Ramu Sahu Aged About 10 Years
 4. Ku. Annu D/o Late Ramu Sahu Aged About 4 Years
 5. Bhupendra Late Ramu Sahu Aged About 2 Years
 6. Meena Bai W/o Ram Dular Sahu Aged About 50 Years
- Appellants No.2 to 5 Minor, Through Legal Guardian Mother Smt. Sukhamati Bai (Appellant No.1)
- All R/o Sargaon, Thana- Hirri, Tah. Pathariya, Distt. Bilaspur (Now Distt. Mungeli C.G.)

---- Appellants

Versus

1. Ramji Yadav S/o V.N. Yadav Aged About 33 Years R/o 107 D.H. Road, Kolkata Paschim Bangal
2. Bharat Cairiers Limited N.H. 5, S. 3/61 First Bhuneshwer (Orisa)
3. The ICICI Lombard General Insu. Branch Office- Shiv Bhawan, Bhawan, Vidhan Sabha Marg, Pandri, Raipur C.G.
4. Khelu Ram S/o Bharat Ram Aged About 25 Years R/o Laohada, Thana & Tah. Pathariya, Distt. Bilaspur C.G.
5. Baratu Sahu S/o Mangal Sahu Aged About 45 Years R/o Laohada, Thana & Tah. Pathariya, Distt. Bilaspur C.G.
6. Chola Mandlam M.S. General Insu.Co.Ltd. First Tal Hinduja Complex, 22 New Paras Nagar Chowk, Raipur C.G.

---Respondents

For Appellants	:	Mr. A.L. Singroul, Advocate
For Respondent No.3	:	Mr. P. Acharya, Advocate under the instructions of Mr. Amrito Das, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/09/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act by the claimants.
2. Heard on I.A. No.1, which is an application for condonation of delay. Considering the fact that it is a claim by the widow and children in a death case and accepting the reasons assigned in the application to

be satisfactory, I.A. No.1 is allowed and delay of 91 days in filing the appeal stands condoned. With the consent of the counsel for either party the matter was heard finally.

3. The challenge in the present appeal is the order dated 23.01.2014, passed by the Additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur, in Claim Case No. 237/2011. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has allowed the application and ordered for payment of compensation of Rs.4,18,000/- with interest @ 6% per annum. It is this award, which is under challenge by the claimants alleging that the compensation awarded is on the lower side.
4. The counsel for the appellants submits that the date of accident in the present case was 27.10.2011 and the deceased Ramu Sahu was working as a Mason and that he was earning an income of Rs.150-200/- per day at the relevant point of time, however the Tribunal has only taken the notional income of Rs.3,000/- a month for quantification of the compensation. He submits that the Tribunal also has not considered the future prospects while calculating the compensation, further the compensation awarded under the conventional head also is unreasonable, thus prayed for the suitable enhancement of the compensation.
5. The counsel appearing for the respondents however opposing the appeal submits that it is a case where the Tribunal has passed the award considering the evidence which has been brought on record and that the award being just and reasonable does not warrant any interference.
6. Having heard the contentions put forth on either side and on perusal of records, this Court is of the opinion that the claimants in the present case has been able to establish the fact that the deceased at the relevant point of time was working as a Mason. It is anybody's guess that in the month of October, 2011 the wages for even an unskilled labour would have been more than Rs. 150/- a day that would make it more than Rs.4,500/- a month. This Court therefore has no hesitation in holding that the income on the basis of which the

Tribunal has calculated the compensation of Rs.3,000/- is not just and reasonable and the calculation ought to have been by accepting the monthly income to be Rs.4,500/-, it is ordered accordingly.

7. Further it is also settled position of law that while quantifying the compensation the income under the future prospects also has to be considered as has been laid down by the Hon'ble Supreme Court right from the judgment of **"Sarla Verma & Ors vs Delhi Transport Corp. & Anr"** (2009) 6 SCC 121 and all subsequent decisions. Considering the age of the deceased, which was 25 the future prospects to be added with 50%. If Rs.4,500/- is accepted as the income of the deceased, 50% of it would be Rs.2250/- which added to Rs.4,500/- would make it Rs.6,750/- and which when multiplied by 12, the amount comes to Rs.81,000/- as a yearly income.
8. Considering the fact that there are six claimants, the deduction towards the personal expenses would be 1/4 and after deducting the ¼ from Rs.81,000/- the net income would be Rs.60,750/-, which if is multiplied by the multiplier of 18 the figure reaches to Rs.10,93,500/-. Likewise so far as the conventional head is concerned, considering the recent decision, which has been passed by the Hon'ble Supreme Court, this Court feels it proper that considering the total number of claimants, compensation under the conventional head should be Rs.1,00,000/- instead of Rs.10,000/-, which has been awarded by the Tribunal. It is ordered accordingly. Thus, the claimants shall be entitled for a total compensation of Rs.11,93,500/- instead of Rs.4,18,000/- as awarded by the Tribunal.
9. The appeal of the claimants thus stands allowed. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal

Sd/-
(P. Sam Koshy)
Judge