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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 1086 of 2014

1. Smt. Rajshri Jain W/o Late Rishabh Kumar Jain, aged about 39 years, R/o Ram Mandir Road, Katangi, Distt. Balaghat, M.P.
2. Punit Jain S/o Late Rishabh Kumar Jain, aged about 14 years, minor represented through natural guardian mother Smt. Rajshri Jain, R/o Ram Mandir Road, Katangi, Distt. Balaghat M.P.
3. Gaurav Jain S/o Late Rishabh Kumar Jain, aged about 12 years, minor represented through natural guardian mother Smt. Rajshri Jain, R/o Ram Mandir Road, Katangi, Distt. Balaghat M.P.
4. Dalchand Jain S/o Fakirchand Jain, aged about 80 years, R/o Ram Mandir Road, Katangi, Distt. Balaghat M.P.
5. Smt. Kamla Bai Jain W/o Dalchand Jain, aged about 76 years, R/o Ram Mandir Road, Katangi, Distt. Balaghat M.P.

---- Appellants

Versus

1. Mangauram S/o Murharam Nag R/o village Sidavan, Thana- Keshkal, Distt. Bastar C.G. (Driver of truck No. CG 17-H 1811)
2. Diwan Singh S/o Sardar Singh R/o Gangamunda Ward, Gandhi Nagar, Jagdalpur, Distt. Bastar C.G. (Owner of truck No. CG 17-H 1811)
3. Reliance General Insurance Company Limited through Branch Manager, Branch Office, Plot No. 29, Nehru Nagar, Commercial Complex, Bhilai, Distt. Durg C.G. (Insurer of truck No. CG 17-H 1811)
4. Smt. Pramila Bai Kothari W/o Late Dilip Kumar Kothari, aged about 50 years, R/o Gandhi Chowk, Mahasamund, Distt. Mahasamund, C.G.
5. United India Insurance Co. Ltd. through Branch Manager, Branch Office, Tara Complex, G.E. Road, Power House, Bhilai, Distt. Durg C.G. (Insurer of Tavera Car No. CG 07 M 9019) **---- Respondents**

For Appellant	:	Shri Samir Singh, Advocate
For Respondent no.3	:	Shri Rohitashav Singh, Advocate
For Respondent no.5	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order On Board

04/12/2017

Present is a Claimants' appeal under Section 173 of the Motor Vehicles Act assailing the award dated 16.07.2014 passed by the 1st Additional Motor Accident Claims Tribunal, Balod, District Balod (CG) in Claim Case No. 83 of 2014. Vide the impugned award the Tribunal in a death case of Rishav Jain under Section 166 of the MV Act has awarded a compensation of Rs.11,55,000/- with interest @ 6% per annum from the date of application.

2. Contention of the counsel for the applicant is that the Tribunal has not considered the income of the deceased properly and that the future prospects has also not been added. He submits that the deductions towards personal expenses should have been 1/4th in stead of 1/3rd as assessed by the Tribunal taking into consideration the total number of claimants. He further submits that the income tax return of the deceased was also produced which showed the income of the deceased to be much more than what has been assessed by the Tribunal. Thus, prayed for the amount of compensation to be suitably enhanced.

3. State counsel, however, opposing the appeal submits that it is a case where the employment and the income of the deceased has not been properly proved and established before the Tribunal, in the absence of which, the income assessed by the Tribunal is to be considered as just and reasonable. Thus, prayed for rejection of the appeal.

4. Considering the submissions put forth on either side and on perusal of the record, this Court does not find any error on the part of the Tribunal in assessing the income at Rs.1,14,000/- yearly taking into consideration the income tax return and the other evidences which have been produced before the Tribunal. However, taking into consideration the recent trend of the

Supreme Court, the claimants in the instant case, would have entitled for the future prospects while quantifying the compensation. Considering the age of the deceased and the nature of income, it would be 25% of the income. In addition, the deductions made towards personal expenses would be 1/4th in stead of 1/3rd. If 25% of the income is added towards future prospects, the yearly income would be Rs.1,42,500/- of which if 1/4th is deducted towards personal expenses, the amount would be Rs.1,06,875/-. If the said amount is multiplied applying the multiplier of 14 in stead of 15 as has been done by the Tribunal, the amount would come to Rs.14,96,250/- as compensation towards loss of dependency. In addition, the claimants would also be entitled for Rs.70,000/- under conventional heads. Thus, the claimants shall be entitled for a total compensation of Rs.15,66,250/- in stead of Rs.11,55,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal. The liability part for payment of compensation shall remain the same as has been arrived at by the Tribunal.

5. The appeal thus stands allowed.

Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola