NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.594 of 2010

1. Smt.Usha Gupta W/o Late Shri Manoj Gupta, aged about 38 years.
2. Ayush Gupta, aged about 4 years.
3. Ku.Muskan, aged about 10 years.
4. Ku.Shreya Gupta, aged about 13 years.
   Appellant Nos.2 to 4 are minor through natural guardian mother Smt.Usha Gupta.
5. Smt.Uma Devi W/o Shri Gulab Rai Gupta, aged about 70 years.
6. Shri Gulab Rai Gupta S/o Late Natthulal Gupta, aged about 75 years.
   All are R/o R.D.A.Colony, Tikrapara, Raipur (C.G.).

---- Appellants

Versus

1. Lalit Kumar Jhabak S/o Pukhraj Jhabak, age 35 years, R/o Bharatmata Chowk, Rajnandgaon, District Rajnandgaon (Chhattisgarh).
2. National Insurance Company, Mandal Karyalya, upon Mobin Mahal Central Bank, Lalganga Shopping Complex, Raipur (Chhattisgarh).
3. Jagdish Singh Maravi S/o Sugar Singh Maravi, aged about 28 years, R/o Tikratola, Karanjiya Thana Karanjiya, District Dindori (M.P.)
   At present : Perfect Batry, Ganjinagar, Birgaon, Raipur, Tah & District Raipur (C.G).
4. Nashim Akhtar S/o Mohammad Munshiraja, Caste Musalman, R/o Perfect Batry, Ganjinagar, Birgaon, Raipur Tah & District Raipur (C.G)
5. The Oriental Insurance Company Limited, Chawla Complex, Devendra Nagar Road, Sai Nagar, Raipur Tahsil & District Raipur (C.G).

---Respondents

For appellants	:	Shri Sunil Sahu, Advocate
For respondent No.2/ Insurance Company	:	Shri Qamrul Aziz, Advocate
For respondent No.5/ Insurance Company	:	Shri Sudhir Agrawal, Advocate

---

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/09/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act preferred by the claimants seeking enhancement of the compensation awarded vide order dated 10/09/2009 passed by 9th Motor Accident Claims Tribunal (F.T.C), Raipur (C.G) in Claim Case No.110/2009.

2. The counsel for the appellants submits that, it is a case where the compensation has been calculated on lower side in as much as in spite of Income Tax Return having being furnished by the claimants showing the annual income of the deceased Manoj Gupta of Rs.1,03,335/-, but the Tribunal has accepted the income of the deceased of only Rs.36,000/- for the purpose of calculating the compensation. He further submits that, the compensation towards the conventional head also is unreasonably low

which has been awarded. Likewise, he has also assailed the order on the ground that, the income under future prospects has also not been calculated.

3. The counsel for the Insurance Company however opposing the appeal submits that, taking into account the evidence which have come on record, the award is just and reasonable and does not warrant any interference and prayed for the dismissal of the appeal.

4. Having heard the rival contentions put forth on either side and on perusal of record, there is no dispute regarding the date of accident, the death of the deceased, the vehicle involved in an accident being duly insured with the Insurance company or not? The only issue which required to be looked into by this court is weather the compensation awarded is just and reasonable? If we take into account the document which was produced before the Truibunal, it clearly reflects that, the deceased in the instant case had furnished the Income Tax Return of about Rs.1,03,000/-. Undisputedly, the deceased was working as a contractor, even if, Rs.1,03,000/- is considered to be on higher side. It is any-body's guess that, a person of the stature of the deceased would have been earning minimum of Rs.84,000/- an year @ of Rs.7,000/- a month. Accordingly this court orders that, for the purpose of quantification of the compensation, the amount of income that should had been taken was Rs.84,000/- annually, instead of Rs.36,000/- as has been assessed by the Tribunal.

5. If we take Rs.84,000/- as the annual income of the deceased and if we add 30% towards future prospects, the amount would come to Rs.1,09,200/- of which if 1/3rd is deducted towards personal expenses, the amount would be Rs.72,800/- which if multiplied by applying multiplier of 14, the amount would becomes 10,19,200/-. So far as the compensation under the conventional head is concerned, the amount of Rs.25,000/- awarded by the Tribunal also is on the lower side.

6. By keeping in view the decision of the Hon'ble Supreme Court in the case of ***Rajesh vs. Rajbir Singh [(2013) 9 SCC 54],*** this court feels it proper that ends of justice would meet if a lump-sum compensation of Rs.1,25,000/- is awarded under this head. Thus, the total compensation payable to the claimants shall be Rs.11,44,200/- instead of Rs.3,62,000/- as has been awarded by the Tribunal. Thus, the claimants shall be entitled for an additional enhanced amount of Rs.7,82,200/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The distribution and liability of the compensation shall also be in the same distribution and liability ratio as has been decided by the Tribunal vide the impugned award.

Sd/-
(P. Sam Koshy)
Judge

Sumit