

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Miscellaneous Appeal (C) No. 107 of 2006

1. Laxman Das aged 28 years, S/o Late Kapil Das
2. Smt. Kaushilya Bai aged 55 years, W/o Late Kapil Das. (Deleted)

Both Resident of M/154, Dipka Colony, Tahsil and District Korba, Chhattisgarh

---- Appellants

Versus

1. Sanju aged 31 years, S/o Gorelal Sai, R/o Kupaina PS Kusmunda, Tahsil Katghora, District Korba, Chhattisgarh.
2. Gorelal aged 60 years, S/o Lallu Singh, R/o Qtr. No. 362/NCH Dipka Urja Nagar, Gewra, PS Kusmunda, Tahsil Katghora, District Korba, Chhattisgarh.
3. Regional Officer, Through Branch Manager, United India Insurance Company Ltd. 68, Indira Complex, TP Nagar, Korba, Tahsil and District Korba Chhattisgarh.

---- Respondents

For Appellants : Ms. Sharmila Singhai, Advocate.
 For Respondents 1 & 2 : None.
 For Respondent No. 3 : Shri H.B.Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

03/02/2017

1. This appeal by the Claimants for enhancement of the compensation is directed against the award dated 10.05.2006 delivered by the learned Additional Motor Accident Claims Tribunal, Korba (hereinafter called "the Tribunal") in Claim Case No.284 of 2004 whereby the Tribunal awarded a sum of Rs.1,03,335/- as compensation to the Claimants.

2. The undisputed facts are that the deceased Kapil Das was aged about 60 years when the accident took place on 30.10.2002. He had retired from South

Eastern Coalfields Ltd. He met with an accident and died due to the injuries sustained in a motor vehicle accident. The claimants are his major son and widow. They filed a claim petition claiming compensation under Section 166 of the Motor Vehicles Act. The learned Tribunal held that the deceased was only getting pension of Rs. 798/- per month. Though the claim petition was filed under Section 166 of the Motor Vehicles Act but the learned Tribunal took the income of the deceased at Rs. 25,000/- per annum and then calculated the compensation as per the second Schedule under Section 163(A) of the Motor Vehicles Act. The second Schedule is not applicable to the cases under Section 166 of the Motor Vehicles Act.

3. The deceased was 60 years of age. A 60 year old man after retirement can earn some amount. The deceased had retired from SECL and he could have done some work. Even in the year 2002, I would assess income of the deceased at least Rs. 3000/- per month. After deducting 1/3 towards the personal expenses of the deceased, the balance amount comes to Rs. 2000/- per month or Rs. 24,000/- per annum. As per the law laid down in *Sarla Verma (Smt) & Others v. Delhi Transport Corporation & Another* {(2009) 6 SCC 121} the appropriate multiplier for this age group is 7 and therefore, the compensation works out to Rs. 1,68,000/-. In addition thereto, the claimants are also held entitled to Rs. 12,000/- for funeral expenses. The widow would also have been entitled to Rs. 50,000/- for loss of consortium. Therefore, the total amount of compensation is assessed at Rs.2,30,000/-. On the said amount, the Claimants are also entitled to interest at the rate of 9% per annum from the date of filing of the claim petition till the date of actual payment/deposit.

4. In view of the above discussion, the appeal is allowed and the award of the Tribunal is modified to the extent indicated above. However, It is clarified that in terms of the award of the learned Tribunal, the Insurance Company shall be liable to deposit/pay the enhanced amount of compensation, but will be entitled to

recover the same from the owner and driver of the offending vehicle by filing certificate proceedings under Section 174 of the Motor Vehicles Act and it shall not be required to file a separate suit or any other proceedings for recovery of the amount.

5. During pendency of the appeal, the widow has also died and therefore, the entire compensation shall be paid to Appellant No. 1-son.

6. Send down the lower Court records forthwith.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE