

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1203 of 2010**

1. Ramavtar Dewangan S/o late Nanku Ram Dewangan, aged about 46 years.
2. Smt. Jam Bai W/o Ramavtar Dewangan, aged about 42 years.
3. Ku. Rameshwari Dewangan D/o Ramavtar Dewangan, aged about 15 years Minor Through Natural Guardian Father, Appellant No.1.
4. Ku. Geetanjali Dewangan D/o Ramavtar Dewangan, aged about 19 years,
All are R/o Village Sandi, Thana- Mandir Hasaud, Tahsil and Distt.- Raipur.

---- Appellants**Versus**

1. Romu Sahu @ Manoj Sahu S/o Shyam Lal Sahu R/o village Kohka, Thana Bhatapara Gramin, District Raipur (CG) presently at Ganganagar, Bhanpuri, Thana Khamtarai, District Raipur (CG). Driver of vehicle TATA Sumo No.MP23-GA-1080)
2. Smt. Kusum Sakunia W/o Girdhari Lal Sakunia, C./o Milan Sweets, Station Road, Raipur, District Raipur. (Owner of vehicle TATA Sumo No.MP23-GA-1080)
3. The Oriental Insurance Company Ltd. Through Divisional Manager, Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandri, Raipur, District Raipur. (Insurer of vehicle TATA Sumo No.MP23-GA-1080).
4. Sushil Kumar Jain S/o Govindman Jain, R/o Dondilohara, Tahsil Balod, District Durg. (Owner of Matador No.CG-07-C-0466)
5. The Oriental Insurance Company Ltd. Branch Office Kamthi Line, Rajandgaon, Distt. Rajnandgaon (CG).(Insurer of of Matador No.CG-07-C-0466).
6. Narsingh Sahu S/o Bisal Sahu, R/o Village Rawa Thana Arjuni, Tahsil And District Dhamtari. (Driver of of Matador No.CG-07-C-0466).
7. Rajesh Mrigendra S/o Lala Ram Mrigendra, R/o Village Sorid Nagar, Dhamtari, Tehsil and District Dhamtari (CG). (Owner of of Matador No.CG-07-C-0466).

---- Respondents

For Appellants	:	Shri Sangeet Kumar Kushwaha under instructions of Shri SS Rajput, Advocate.
For respondent No.1	:	Shri Keshav Dewangan, Advocate.
For respondent No.3	:	Shri Arvind Shrivastava, Advocate.
For respondent No.5	:	Shri Sudhir Agrawal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment On Board**

03.10.2017.

1. The present is an appeal filed by the claimants seeking enhancement of compensation under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 11.03.2010 passed by the 2nd Additional Motor Accident Claims Tribunal, Raipur (for short, the Tribunal) in Claim Case No.129 of 2009. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act by the claimants have awarded compensation of Rs.4,30,000/- along with interest @ 6 percent per annum from the date of application.
2. Brief facts of the case is that, Manish Kumar, aged about 22 years, met with an accident on 21.04.2006. The accident occurred when the deceased was travelling on Tata Sumo bearing registration No.MP-23-GA-1080 was dashed by a Matador bearing registration No.CG-07-C-0466. The claimants i.e. parents and sisters of the deceased filed a claim application under Section 166 of the MV Act. The Tribunal exonerated the insurance company insuring the Matador and fastened the liability of compensation upon the insurance company which had insured the Tata Sumo in which the deceased was travelling and awarded compensation of Rs.4,30,000/-.
3. Learned counsel appearing for the appellants submits that the Tribunal has not properly calculated the compensation awarded inasmuch as the multiplier has not been assessed properly. Considering the age of the deceased, the multiplier of 18 ought to have been applied whereas, multiplier of 10 has been applied. Further, the income under

future prospects also has not been taken into consideration while quantifying the compensation and prayed for the amount of compensation to be suitably modified or enhanced.

4. Counsel for the insurance company however opposing the appeal submits that the award passed by the Tribunal is also erroneous to the extent that the policy issued was act only policy which did not cover the deceased, who was travelling in the vehicle as an occupant and therefore the Tribunal should have exonerated the insurance company and should have fastened the liability upon the owner.
5. This contention of the insurance company cannot be accepted for the reason that the insurance company has not assailed the amount awarded, neither have preferred any cross objection to the appeal. It is only an appeal by the claimants seeking enhancement of compensation awarded by the Tribunal. Thus, the contention raised by the insurance company being not sustainable stands negated.
6. So far as the proper compensation is concerned, this court has no hesitation in reaching to the conclusion that the multiplier, as well as considering future prospects while quantifying the compensation, both have now become part and parcel of an award to be passed by the Tribunals in view of a catena of decisions of Supreme Court starting from landmark judgment in case of Sarla Verma and Ors. Vs. Delhi Transport Corporation & Anr. 2009 (6) SCC 121 and all subsequent decisions.
7. In the instant case, the claimants have pleaded the income of the deceased to be Rs.7000/- which has also been accepted by the

Tribunal while quantifying the compensation. Thus, accepting the income of the deceased at Rs.7000/- per month, the yearly income would come to Rs.84,000/- of which if 50 percent is added towards future prospects, the amount would come to Rs.1,26,000/-. Considering the fact that deceased was a bachelor and the claimants being parents, deduction towards personal expenses would be 50 percent and after deducting the same, the amount would come to Rs.63,000/-which if multiplied by applying the multiplier of 18, the amount would reach to Rs.11,34,000/-. Thus, it is ordered accordingly that the claimants shall be entitled for Rs.11,34,000/- for loss of dependency instead of Rs.4,20,000/-as assessed by the Tribunal.

8. So far as compensation under conventional heads are concerned, keeping in view the decision of the Supreme Court in case of Rajesh & Ors. Vs. Rajbir Singh & Ors.2013(9) SCC 54, this court is of the opinion that ends of justice would meet if a lump sum compensation of Rs.1,00,000/- is awarded to the claimants instead of Rs.10,000/- as awarded by the Tribunal. Thus, the total compensation payable to the claimants would become Rs.12,34,000/-instead of Rs.4,30,000/-. It is ordered accordingly.
9. The said enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
10. Accordingly, the appeal of the claimants stands allowed and disposed off.

Sd/-
(P.Sam Koshy)
Judge