NAFR

HIGH COURT of CHHATTISGARH, BILASPUR
MA No. 148 of 2006

Smt. Pila Bai Wd/o late Shri Parmulal Sahu, aged about 27 years, resident of village Arjuni, Tahsil Gurur, District Durg (CG).

---- Appellant

Versus

1. Sarju Ram S/o Tetkuram, aged about 35 years, resident of Gokulpur, Ward Dhamtari, Tahsil and District Dhamtari (CG).
2. Ratanchand S/o late Shri Daulatram Sankhla, resident of Shanti Colony, Dhamtari (CG).
3. Branch Manager, Oriental Insurance Co. Ltd. Near Adarsh Bal Mandir, Dhamtari (CG).
4. Punarad Ram Sahu S/o late Shri Dhanwa Prasad, aged about 59 years.
5. Smt. Gwalin Bai W/o Punarad Ram sahu, aged about 55 years
   Respondents No.4 & 5 are residents of village Arjuni, Tahsil Gurur, District Durg (CG).
6. Kamesh S/o late Parmulal Sahu, aged about 7 years, through natural guardian his mother Smt. Sulochana Wd/o late Parmulal Sahu, aged about 34 years.
7. Smt. Sulochana W/o Shri Santosh Gond (Electric Shop) aged about 34 years, R/o village Mujgahan Abadipara, Post Loharshi, Tahsil and District Dhamtari (CG).

---- Respondents

For Appellant	:	Shri RS Patel, Advocate.
For respondents No.1&2	:	Shri Sachin Singh Rajput, Advocate.
For respondent No.3	:	Shri Ratan Pusty and Shri Neelkanth Malviya, Advocates on behalf of Shri AK Athaley, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

28/07/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 16.11.2005 passed by the Additional Motor Accident Claims Tribunal, Dhamtari (in short, the Tribunal) in Claim Case No.249/2004. Vide the impugned award, the Tribunal has awarded total compensation of

Rs.6,01,160/- and has been distributed among the different claimants. It is this award which is under challenge in this appeal.

2. Learned counsel for the claimants submits that the manner in which the Tribunal has granted compensation is erroneous as the compensation amount has been quantified taking into account the age of the claimants whereas, it has to be the age of the deceased which would be relevant for quantifying the compensation. The Tribunal has also not granted compensation under the head of future prospects. Likewise, it was also the contention of the appellants that since the claimants were more, the deduction towards personal expenses ought to had been 1/4th instead of 1/3rd as has been taken by the Tribunal. The Tribunal has also erred in not granting the interest on the award amount from the date of application. Therefore, prayed for compensation to be enhanced suitably.

3. Learned counsel appearing for the respondents opposing the appeal submits that a plain reading of the impugned award by itself would show that the Tribunal has taken into consideration the facts and circumstances of the case as also the age of the respective claimants for grant of compensation. Therefore, there is no scope of interference and the appeal deserves to be rejected.

4. Having heard learned counsel appearing for either side, the claim of the appellants seem to be justified where the compensation ought to have been calculated taking into account the age of the deceased and not the age of the claimants. Thus, the amount awarded deserves modification and it is ordered accordingly.

5. Likewise, the law by now is also well settled that when the compensation is being quantified in a death case, the loss of income towards future prospects also should be included while calculating the compensation. We find the order of the Tribunal bad in law to that extent. Similarly, so far as deduction towards personal expenses are concerned, the same is also by now no longer res integra as it is settled by the Supreme Court in case of Sarla Verma & Ors. Vs. Delhi Transport Corporation and Anr.,2009(6)SCC121, wherein it has been held that in case if there are more number of dependents in family, the personal expenses would be 1/4th which in the instant case the Tribunal has accepted to be only 1/3rd and the same therefore, also deserves modification and it is ordered accordingly.
6. Considering the aforesaid facts, if we quantify the compensation by accepting the income of deceased as assessed by the Tribunal as Rs.6463/- and by adding 50 percent of it (i.e. 3231.50) towards future prospects, the monthly income comes to Rs.9694.50/-=R/o Rs. 9695/- and the yearly income thus would become Rs.1,16,340/-. If we deduct 1/4th of it towards personal expenses of the deceased, the net income comes to Rs.87,255/- and if we multiply this amount with the multiplier of 17, the amount would reach to Rs.14,83,335/- which is the amount the appellants shall now be entitled for loss of dependency.
7. It is ordered accordingly that the appellants shall now be entitled for compensation of Rs.14,83,335/- instead of Rs.6,01,160/- i.e. Rs.8,82,175/- over and the above the amount already awarded by the

Tribunal.

8. It is also ordered that the above enhanced amount i.e. Rs.8,82,175/- payable to the claimants shall also carry interest @ 6 percent per annum from the date of application till its actual payment.

9. Further, it is also ordered that the enhanced compensation deserves to be distributed among the different claimants at the same proportion as has been done by the Tribunal. That, on the ratio which has been applied by the Tribunal, the amount of compensation receivable by each of the claimants are as under :

Punarad Ram's share-11%	= Rs. 97,039.25/-
Peela Bai's share -40%	= Rs.3,52,870/-
Gwalin Bai's share -17%	= Rs.1,49,969.75/-
Kamesh's share -32%	= Rs.2,82,296/-
Total	**= Rs.8,82,175/-**

10. This amount is in addition to what has already been awarded to each of the claimants by the Tribunal.

11. The insurance company is granted two months time to deposit the enhanced amount of compensation before the concerned Tribunal.

Sd/-
(P. Sam Koshy)
Judge

inder