

HIGH COURT of CHHATTISGARH, BILASPUR**MA No. 177 of 2001**

Smt. Lily Arora & Ors.

Versus

Atul Kumar Mishra & Ors.

For Appellant	:	None.
For Insurance Company :		Shri Sudhir Agrawal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****05/09/2017**

1. The present is an appeal by the claimant under Section 173 of the Motor Vehicles Act against the award dated 02.01.2001 passed by the 1st Additional Motor Accident Claims Tribunal Ambikapur (in short, the Tribunal) in Claim Case 28/1999. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act, has awarded total compensation of Rs.5,84,500/-. While passing the award, the liability of payment of compensation was fastened upon the owner and driver of the offending vehicle and the insurance company was exonerated of its liability except for the limited amount of Rs.1,00,000/- for which the insurance company had charged the extra premium of Rs.50/-.
2. Considering the facts that it is an appeal of the year, 2001 and inspite of appellants not being present, this court proceeds to decide the matter on its merit taking into account the records available before the court.

3. Though the insurance company was exonerated of its liability, yet on account of extra premium of Rs.50/- which was taken by the insurance company and the liability of insurance company being limited to Rs.1,00,000/-, the insurance company, as stated by Shri Sudhir Agrawal, has paid the said amount of Rs.1,00,000/-to the claimants.
4. A perusal of record shows that the owner in the instant case had already preferred an appeal assailing the same award vide MA No.173 of 2001. The Division Bench of this High Court vide its judgment dated 31.08.2006 has dismissed the appeal of the owner thereby the issue pertaining to liability of the owner stands settled.
5. Now the only issue which requires to be adjudicated upon is whether the amount of compensation awarded to the claimant is just and reasonable or not.
6. So far as the income of the deceased is concerned, the income tax return of the deceased was submitted and it was shown that he was having annual income of Rs.53,820/-. Based upon the said income tax return, the Tribunal has taken the annual income of the deceased at Rs.52,000/- for the purpose of quantifying the compensation.
7. What strikes the conscious of this court is the fact that the Tribunal has not taken into consideration the income under future prospects for determining the compensation. Since the deceased was aged around 36 years, applying the ratio laid down by the Supreme Court in case of Sarla Vs. & Ors. Vs. Delhi Transport Corporation & Anr., 2009 (6) SCC 121, the future income of 50 percent ought to have

been taken into account for quantifying the annual income.

8. If we add 50 percent of annual income assessed by the Tribunal towards future prospects, the amount would reach to Rs.78,000/- of which 1/3rd is deducted towards personal expenses, the net income for the purpose of quantifying compensation would be Rs.52,000/-. If this amount is multiplied by applying the multiplier of 15 which is the multiplier prescribed by the Supreme Court in case of Sarla Verma (Supra) in place of 16 as applied by the Tribunal, the compensation payable to the claimants for loss of dependency would be Rs.7,80,000/-. Thus, it is ordered that the claimants shall be entitled for compensation of Rs.7,80,000/- towards loss of dependency instead of Rs.5,60,000/- as assessed by the Tribunal.
9. Likewise, if we take into account the compensation awarded under conventional heads also, this court is of the opinion that the amount awarded under this head is also on lower side and ends of justice would meet if a lump sum compensation of Rs.1,00,000/- is awarded under the conventional heads instead of Rs.24,500/- as awarded by the Tribunal. It is ordered accordingly.
10. Thus, the claimant shall now be entitled for Rs.8,80,000/- instead of Rs.5,84,500/- as awarded by the Tribunal. The appeal of the claimants is thus allowed. The claimants shall be entitled for an additional amount of Rs.2,95,500/- over and above the amount awarded by the Tribunal. Rest of the conditions mentioned in the award shall remain intact.
11. The Secretary, High Court Legal Aid Services is directed to send a

copy of this order to the Secretary, District Legal Services Authority, Ambikapur, who, in turn, should try to get this order delivered to the appellants/claimants at the earliest.

Sd/-
(P.Sam Koshy)
Judge

inder