

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1598 of 2016**

1. Kiran Singh W/o Late Rajendar Singh, aged about 38 Years;
2. Himanshu Singh S/o Late Rajendar Singh, aged about 20 Years;
3. Praveen Kumar Singh S/o Late Rajendar Singh, aged about 11 Years;

Appellant No.3 is Minor Through His Natural Guardian Mother Kiran Singh, W/o Late Rajendar Singh, Aged About 38 Years,
All are R/o Village Patrapali, Kotra, Raigarh, Chhattisgarh, At Present R/o Village Sedam, Police Station Batauli, District Surguja, Chhattisgarh.

---- Appellants**Versus**

1. Arun Kumar Pandey S/o Ram Surat Pandey, aged about 38 Years R/o Village Thakurganj Bajar, Police Station, Uchhagaon, District Gopalganj (Bihar) At Present R/o Turka Muda, Chhatamuda Chowk, Bypass Jutmill, Raigarh, District Raigarh, Chhattisgarh.....(Driver)
2. Phulendra Singh S/o Late Basudev Singh, aged about 50 Years R/o Bengal Bihar Roadways, Chhatamuda Chowk Bypass Jutmill, Raigarh, District Raigarh, Chhattisgarh(Owner)
3. The New India Insurance Company Limited, Through Branch Manager, The New India Insurance Company Limited, 2nd Floor, Satigudi Chowk, Sardar Bazar Road, Raigarh, District Raigarh, Chhattisgarh(Deleted)
4. The Oriental Insurance Company Limited, Through Branch Manager, The Oriental Insurance Company Limited, Rahul Complex, 3rd Floor, O.P.Jindal Road, Jagatpur, Near Axis Bank, Raigarh, District Raigarh, Chhattisgarh 496001, Through Divisional Office The Oriental Insurance Company Limited, Ambikapur, District Surguja, Chhattisgarh(Insurer).

---- Respondents

For Appellants	:	Shri Anurag Singh, Advocate.
For respondents 1&2	:	Shri Roop Naik, Advocate.
For respondent No.3	:	Shri BN Nande, Advocate.
For respondent No.4	:	Shri Deepak Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/07/2017**

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act

seeking for enhancement of compensation against the award dated 09.08.2016 passed by the Motor Accident Claims Tribunal, Ambikapur (for short, the Tribunal), in Claim Case No.236/2014.

2. As against the compensation claimed by the claimant under Section 166 of Motor Vehicles Act for the accidental death of deceased in motor accident on 03.08.2014, the Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, allowed the claim application and awarded Rs.3,61,000/- as compensation and held that the accident had occurred due to rash and negligent driving of driver of Truck i.e. respondent No.1, owned by respondent No.2 and insured by respondent No.4.
3. Learned counsel for the appellant submits that the Tribunal has erred in taking into consideration the notional income of the deceased at Rs.3000/- per month. In the year, 2014, the minimum wages was somewhere around Rs.150-200/- per day i.e. Rs.4500 to 6000 per month. Further, the amount of Rs.25,000/- only awarded under the other heads are also on lower side keeping in view the decision of Supreme Court in case of Rajesh & Ors. Vs. Rajvir & Ors. and also 2015(3)SCC 590, Neeta & Ors. Vs. Divisional Manager, Maharashtra State Road Transport Corporation, Kohhapur. Therefore, the award be enhanced suitably.
4. Per contra, the counsel for the insurance company opposes the appeal and submits that the award is just, proper and reasonable and does not warrant interference.
5. Having considered the rival contentions put forth on either side and

on perusal of records, this court has no hesitation in accepting the contention of appellant. The deceased was working as clerk in a private firm. He must have been drawing the salary more than Rs.3000/- per month as minimum wages of an unskilled labour itself was between Rs.150-200 per day i.e. Rs.4500 to 6000 per month. Thus, the assessment of notional income of deceased at Rs.3000/- was not proper. It ought to have been at-least Rs.4500/- per month. Thus, the amount of compensation needs to be re-computed by taking monthly wages of the deceased at Rs. 4500/-.

6. If Rs. 4500/- is accepted as monthly wages, the annual income would be Rs.54000/-. After multiplying 14 as applied by the Tribunal, the amount comes to Rs.7,56,000/-, of which, if 1/3rd is deducted towards his personal expenses, the balance amount comes to Rs. 5,04,000/-. Thus, it is ordered that the claimants are entitled for compensation for loss of income at Rs.5,04,000/- in place of Rs.3,36,000/- as awarded by the Tribunal. So far as compensation under other heads are concerned, considering the decisions rendered by the Supreme Court in the aforementioned cases, a consolidated amount of Rs.1,50,000/- would make the compensation just and proper under other heads.
7. Thus, the appeal is allowed. The appellant shall be entitled for a total compensation of Rs.6,54,000/- in place of Rs.3,61,000/- as awarded by the Tribunal i.e. Rs.2,93,000/- over and above.
8. The above enhanced amount of compensation of Rs.2,93,000/- shall carry interest at the rate as quantified in the award. Rest of the

conditions mentioned in the award shall remain intact.

9. The respondent No.4-Insurance Company is granted two months time to deposit the above enhanced amount of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge

inder