

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 1257 of 2008

1. Shrimati widow of late Ramnarayan, aged about 32 years
2. Ku. Shanti D/o Late Ramnarayan, aged about 7 years (Minor) T
3. Ajay Kumar S/o Late Ramnarayan, aged about 4 years (Minor).
Appellant No.2&3 are Minor Through Natural Guardian Mother (Appellant No.1).
4. Radheshyam S/o Late Bhagwat Ram, aged about 30 years, Caste Biyar R/o Budhar, PS Patna, Teh. Baikunthpur, Distt. Korea (CG).

---- Appellants

Versus

1. Tarashankar son of Kashi Prasad Jayaswal, aged about 29 years, resident of village Budar, PS Patna, Tah. Baikunthpur, Distt. Korea.
2. Munna Ram S/o Kamla Prasad Dewangan, aged about 35 years, R/o Village Tamjeera PS & Tah Baikunthpur, Korea.
3. Seetaram Narmada Prasad Dealer, Sonalika Tractor, Bramha Road, Ambikapur, Surguja (CG)

---- Respondents

For Appellants	:	Shri Atanu Ghosh, Advocate.
For respondents No.3	:	Shri Anurag Dayal Shrivastava, Advocate.

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

13/09/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 23.02.2008 passed by the Motor Accident Claims Tribunal, Korea (Baikunthpur) (in short, the Tribunal) in Claim Case No.108/2006. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act, has awarded compensation to the tune of Rs.87,000/- along with interest @ 6 percent per annum from the date of application. It is this award which is under challenge in this appeal by the claimants seeking enhancement.
2. Learned counsel for the appellants submits that notional income of

Rs.15000/- which has been taken by the Tribunal for quantification of compensation is on the lower side and the same deserves to be enhanced. The accident took place in January, 2005. According to the claimants, even an unskilled labourer during the said period would be earning more than Rs.100/- a day which makes the monthly wages to be more than Rs.3000/-. Likewise the compensation awarded under other heads is also on the lower side which deserves enhancement and prayed for modification of the award suitably.

3. Counsel appearing for the respondent No.3 submits that there is no liability fastened upon the respondent No.3, hence, he does not oppose the appeal.
4. Having considered the rival contentions put forth on either side and on perusal of records, this court finds that the accident in the instant case occurred in January, 2005. The respondents No.1&2 inspite of service have remained absent for reasons best known to them and are not present before this court either in person or through a lawyer to oppose the claimant's appeal. In the year, 2005 indisputably the minimum wages of an unskilled labour would had been more than Rs.100/- a day and as such for all practical purpose the notional income of the deceased ought to have been taken at Rs.36000/- instead of Rs.15000/- as assessed by the Tribunal. It is ordered accordingly.
5. If Rs.36000/- is taken as notional income of the deceased and deducting 50% of it towards personal expenses, the net income would reach to Rs.18,000/-. If this amount is multiplied by applying

the multiplier of 11, the total amount reach to Rs.1,98,000/-. It is ordered accordingly that the claimants shall be entitled for compensation under the head of loss of dependency at Rs.1,98,000/-. The claimants are further entitled for Rs.2000/- under funeral expenses making total compensation to be Rs.2,00,000/- instead of Rs.87,000/- as awarded by the Tribunal.

6. The enhanced amount of compensation shall also carry interest at the same rate as has been ordered by the Tribunal. Remaining part of the award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge

inder