**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No.1147 of 2008**

1. Smt.Bharti Mulwani Wd/o Late Manohar Mulwani, aged about 38 years.
2. Kamal Mulwani S/o Late Manohar Mulwani, aged about 17 years.
3. Kumari Chandani D/o Late Manohar Mulwani, aged about 15 years.
4. Sumit S/o Late Manohar Mulwani, aged 10 years.
   Appellant Nos.2 to 4 are minor through Natural guardian Smt.Bharti Mulwani, Mother.
5. Smt.Ishwari Bai W/o Late Harjasmal Mulwani, aged about 60 years.
   All are R/o In front of Golbazar Usmania Bada, Dhamtari (C.G.).
   Present Address : Fafadih Chowk, Gali No.3, Raipur, Tah & District Raipur (C.G.).

**---- Appellants**

**Versus**

1. Lalit Kumar Jhabak S/o Pukhraj Jhabak, age 35 years, R/o Bharatmata Chowk, Rajnandgaon, District Rajnandgaon (Chhattisgarh).
2. National Insurance Company, Mandal Karyalya, upon Mobin Mahal Central Bank, Lalganga Shopping Complex, Raipur (Chhattisgarh).
3. Jagdish Singh Maravi S/o Sugar Singh Maravi, aged about 28 years, R/o Tikratola, Karanjiya Thana Karanjiya, District Dindori (M.P.)
   At present : Perfect Batry, Ganjinagar, Birgaon, Raipur, Tah & District Raipur (C.G).
4. Nashim Akhtar S/o Mohammad Munshiraja, Caste Musalman, R/o Perfect Batry, Ganjinagar, Birgaon, Raipur Tah & District Raipur (C.G)
5. The Oriental Insurance Company Limited, Chawla Complex, Devendra Nagar Road, Sai Nagar, Raipur Tahsil & District Raipur (C.G).

**---Respondents**

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| For appellants | : | Shri Vimlesh Bajpai, Advocate |
| For respondent No.5/ Insurance Company | : | Shri Ghanshyam Patel, Advocate |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**12/09/2017**

1. Present is an appeal under Section 173 of the Motor Vehicle Act preferred by the claimants seeking enhancement of the compensation awarded vide order dated 30/04/2008 passed by the learned 8th Additional Motor Accident Claims Tribunal (F.T.C), Raipur (C.G) in Claim Case No.66/2007. Vide the said impugned award, the Tribunal in a Claim Case has awarded the compensation of Rs.5,05,000/- along with interest @ 7.5% per annum from the date of application.

2. The counsel for the appellants submits that, it is a case where the compensation has been calculated on lower side in as much as in spite of Income Tax Return having being furnished by the claimants showing the annual income of the deceased Manohar Mulwani of Rs.67,513/-, but the

Tribunal has accepted the income of the deceased of only Rs.45,000/- for the purpose of calculating the compensation. He further submits that, the compensation towards the conventional head also is unreasonably low which has been awarded. Likewise, he has also assailed the order on the ground that, the income under future prospects has also not been calculated.

3. The counsel for the Insurance Company however opposing the appeal submits that, taking into account the evidence which have come on record, the award is just and reasonable and does not warrant any interference and prayed for the dismissal of the appeal.

4. Having heard the rival contentions put forth on either side and on perusal of record, there is no dispute regarding the date of accident, the death of the deceased, the vehicle involved in an accident being duly insured with the Insurance company or not? The only issue which required to be looked into by this court is weather the compensation awarded is just and reasonable? If we take into account the document which was produced before the Truibunal, it clearly reflects that, the deceased in the instant case had furnished the Income Tax Return of about Rs.67,000/-. Undisputedly, the deceased was having his own business, even if, Rs.67,000/- is considered to be on higher side. It is any-body's guess that, a person of the stature of the deceased would have been earning minimum of Rs.60,000/- at the rate of Rs.5,000/- a month and therefore this court is of the opinion that, for the purpose of quantification of the compensation, the amount of income should had been taken Rs.60,000/- annually instead of Rs.45,000/- as has been assessed by the Tribunal. It is ordered accordingly.

5. If we take Rs.60,000/- as the annual income of the deceased and if we add 30% towards future prospects, the amount would becomes Rs.78,000/- of which if 1/3rd is deducted towards personal expenses, the amount would be Rs.52,000/- which if multiplied by applying multiplier of 14, the amount would becomes 7,28,000/-. So far as the compensation under the conventional head is concerned, the amount of Rs.25,000/- awarded by the Tribunal also is on the lower side.

6. By keeping in view the decision of the Hon'ble Supreme Court in the case of ***Rajesh vs. Rajbir Singh [(2013) 9 SCC 54],*** this court feels it proper that ends of justice would meet if a lump-sum compensation of Rs.1,25,000/- is awarded under this head. Thus, the total compensation payable to the claimants shall be Rs.8,53,000/- instead of Rs.5,05,000/- as has been awarded by the Tribunal. Thus, the claimants shall be entitled

for an additional enhanced amount of Rs.3,48,000/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The distribution and liability of the compensation shall also be in the same distribution and liability ratio as has been decided by the Tribunal vide the impugned award.

**Sd/-**
**(P. Sam Koshy)**
**Judge**

Sumit