NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 780 of 2014

1. Prabhu Ram Dewangan S/o Late Rameshwar Dewangan Aged About 51 Years
2. Bisan Bai W/o Prabhu Ram Dewangan Aged About 42 Years
3. Bholeshwar Kumar Dewangan S/o Prabhu Ram Dewangan Aged About 22 Years
4. Pritam Kumar Dewangan S/o Prabhu Ram Dewangan Aged About 17 Years Minor, Through- Father- Prabhu Ram Dewangan,
   All R/o Deori, P.S. Deori, Tahsil Dondilohara, Distt. Balod, Chhattisgarh.

---- Appellants

Versus

1. Budhram Sahu S/o Kejauram Sahu Aged About 29 Years, occupation, Driver of Bus bearing registration No.CG-04-DA-9400, R/o Magarlota, P.S. Somni, Distt. Rajnandgaon C.G.
2. Firoj Quareshi S/o Arif Quareshi Aged About 27 Years, occupation Bus Owner, R/o Kurmipara, Balod, Tah. and Distt. Balod C.G.
3. Branch Manager Ifco Tokiyo General Insu.Co.Ltd., Branch Office- 19/5, First Floor, Abhiyan Complex, Near Chouhan Hotel, Dakshin Gangotari, Bhilai, Tahsil and Distt. Durg C.G.

---- Respondents

For Appellants	:	Shri SK Agrawal, Advocate.
For respondents No.3	:	Shri Amrito Das and Shri P. Acharya, Advocates.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

22/08/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 04.04.2014 passed by the Motor Accident Claims Tribunal, Balod (in short, the Tribunal) in Claim Case No.50/2013.
2. Brief facts of the case is that, the deceased Ishwar Dewangan was travelling along with his friend as pillion rider Deepak on 27.09.2013 when they met with an accident as a result of which both the riders

on the motorcycle died on the spot. The legal representatives of deceased filed a claim case under Section 166 of the Motor Vehicles Act. It was contended before the Tribunal that deceased at the relevant point of time, in addition to pursuing his B.Sc. Degree course was working as a Tailor in a Tailoring shop and was earing Rs.5000/- in a month.

3. The Tribunal considering the facts and circumstances of the case assessed the income of the deceased at Rs.4000/- and have quantified compensation payable at Rs.2,40,000/-, towards funeral expenses Rs.25,000/- and for loss of estate Rs.5000/- was awarded. Thus, total compensation awarded was Rs.2,70,000/-with interest @ 6 percent per annum from the date of application. It is this award which is under challenge in this appeal.

4. The ground of challenge in the appeal is that the multiplier has been wrongly applied by the Tribunal. According to him, in view of judgment of Supreme Court in case of Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. 2009(6)SCC 121, and also the subsequent judgments, the multiplier should be on the basis of age of the deceased and not on the basis of age of the claimants. Likewise it is also contended that, the Tribunal has not taken into account the income under the head future prospects while quantifying the compensation. It was contended that considering the age of the deceased there would had been substantial growth in future income and therefore, he was also entitled for compensation under the head future prospects. Likewise, Rs.30,000/- awarded under the other

heads is also on the lower side which deserves enhancement and prayed for modification of the award suitably.

5. Counsel appearing for the respondent-insurance company however opposes the appeal and submits that the award passed by the Tribunal is just, proper and reasonable as the same has been passed based upon the evidence which have come on record.
6. In the instant case since the age of the deceased was around 19 years, the multiplier applied would be 18. It is ordered accordingly. The non granting of compensation under the head of future prospects also is not justified. As per Sarla Verma's case it has to be at 50% of the income.
7. If Rs.4,000/- is taken as monthly income of the deceased, the yearly income would come to Rs.48,000/- and if we add 50% under the head of future expenses, it would reach to Rs.72,000/- of which if 50 percent is deducted towards personal expenses, the amount would come to Rs.36,000/- to which if the multiplier of 18 is applied, the total amount would reach to 6,48,000/-. It is ordered accordingly that the claimants shall be entitled for compensation under the head of loss of dependency at Rs.6,48,000/- instead of 2,40,000/- as quantified by the Tribunal.
8. So far as compensation under the other heads are concern, taking into consideration the view of the Supreme Court as has been laid down in the case of Rajesh & Ors. Vs.Rajbir Singh & Ors., 2013(9)SCC 54, this court is of the opinion that, claimants would be entitled for lump sum compensation of Rs.1,00,000/- under the other

heads inclusive of funeral expenses also.

9. Thus, in the opinion of this court, the claimants shall be entitle for total compensation of Rs.7,48,000/- instead of 2,70,000/- as awarded by the Tribunal. The enhanced amount of compensation shall also carry interest at the same rate as has been ordered by the Tribunal. Rest of the conditions mentioned in the award shall remain intact.

10. Thus, the appeal stands allowed. The respondent-insurance company is granted two months time to deposit the enhanced amount of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge

inder