

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.1186 of 2009

1. Smt.Kanti Bai Sahu Wd/o Late Budharu Ram Sahu, aged about 52 years.
2. Shiv Kumar Sahu S/o Late Budharu Ram Sahu, aged about 34 years.
3. Ashok Kumar Sahu S/o Late Budharu Ram Sahu, aged about 32 years.

All are R/o village Darripar, Fingeshwar, P.S.Fingeshwar, Tahsil & District Raipur (C.G)

---Appellants

Versus

1. Nageshwar Chandrakar S/o Balaram Chandrakar, R/o village Kharora, P.S.Tahsil Mahasamund, District Mahasamund (C.G).
2. Reliance General Insurance Company Ltd, through Divisional Office Ravi Bhawan, Jai Stambh Chowk, Raipur, District Raipur (C.G).

---Respondents

For Appellants	:	Shri Amiyakant Tiwari, Advocate
For respondent No.2/ Insurance Company	:	Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/10/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act preferred by the claimants assailing the award dated 29/07/2009 passed by the learned Additional Motor Accident Claims Tribunal, Gariyaband in Claim Case No.37/2009. Vide the said impugned award, the Tribunal has awarded compensation of Rs.4,07,000/- for the death of the deceased Budharu Ram Sahu, aged around 56 years who met with an accident on 17/12/2008 and died on 25/12/2008 during treatment.
2. The contentions of the counsel for the appellants is that, the Tribunal has not properly assessed the income of the deceased while quantifying the compensation. He further submits that, the income assessed is on the lower side as the statutory deductions made by the department have not

been added which otherwise also was the income so far as the deceased is concerned particularly the deductions made towards Provident Fund, Insurance etc. He further submits that, the multiplier applied is also on the lower side and the amount of compensation therefore has to be suitably modified and enhanced.

3. The counsel for the Insurance Company however opposing the appeal submits that, taking into consideration the age of the deceased at the time of the accident and the amount of service left, the amount of compensation awarded is just and reasonable and does not warrant any interference.

4. Having considered the rival contentions put forth on either side and on perusal of record what clearly reflects is that, undisputedly the gross salary of the deceased Budharu Ram Sahu was Rs.23,321/-. The Tribunal has deducted the amount of Rs.8,777/- from the said amount which was the deduction shown in the payslip of the deceased. The substantial portion of the deductions made under the Provident Fund, the loan taken by the deceased as also the group insurance coverage etc. All these deductions are the part of the income of the deceased which could not have been deducted for the purpose of quantifying the monthly income of the deceased. The only deduction which could have been taken note was the deduction made towards the Income Tax.

5. Thus the said assessment of Rs.18,000/- the income taken by the Tribunal being erroneous, this court holds that the monthly income of the deceased for the purpose of quantification would be Rs.23,321/- less 10% of it towards the Income Tax which would bring the figure to Rs.21,021/- of which the annual income would be Rs.2,52,252/-. If 1/3rd of the said amount is deducted towards personal expenses, the amount which would

remain is Rs.1,68,168/- which if multiplied by applying multiplier of 9 in view of the decision of the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 {6} SCC 121]** instead of 2 as has been assessed by the Tribunal, the amount would reach to Rs.15,13,512/-. It is ordered accordingly that the claimants shall be entitled for compensation of Rs.15,13,512/- towards loss of dependency instead of Rs.2,88,000/- as awarded by the Tribunal.

6. So far as the compensation under the conventional head is concerned, this court is of the opinion that considering the decision of the Supreme Court in the case of **Rajesh & Ors. Vs. Rajbir Singh & Ors. [2013 {9} SCC 54]**, ends of justice would meet if a lump sum compensation of Rs.1,00,000/- is awarded under this head. In addition, the claimants shall also be entitled for compensation as awarded by the Tribunal towards medical expenses of Rs.53,978/-. Thus the total amount of compensation payable to the claimants would become Rs.16,67,490/- instead of Rs.4,07,000/- as awarded by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal. However the order of the Tribunal so far as imposing the penal interest stands set aside.

7. The appeal of the appellants thus stands allowed and disposed off.

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