

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1612 of 2009**

Bhagwani Vishwakarma, Aged about 30 years, S/o. Late Shri Mangaluram, R/o. Village Dhank, Police Station Pithora, Tahsil and District Mahasamund, Chhattisgarh

---- Appellant**Versus**

1. Gurmeet Singh, Aged about 33 years, S/o. Shri Mansingh, R/o. Saraipali, Tahsil and Police Station Saraipali, District Mahasamund Chhattisgarh (Driver)
2. Pradeep Jain, Aged about 32 years, S/o. Shri Kamidan Jain, R/o. Through: Pramod Sehiya, Hanuman Society, Kalibadi, Tahsil and District Raipur, Chhattisgarh (Owner)
3. The New India Insurance Company Limited, Through: the Divisional Manager Office, Madina Building Jail Road, Raipur, District Raipur Chhattisgarh (Insurance)

----Respondents

For Appellant	:	Mr. J.A. Lohani, Advocate
For Insurance Company	:	Mr. Raj Awasthi, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14/11/2017**

1. Challenge in the present appeal is the award dated 10.09.2009, passed by the Motor Accident Claims Tribunal, Mahasamund, Chhattisgarh, in Claim Case No. 01/2009.
2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.62,000/- with interest @ 6% per annum from the date of application.
3. The counsel for the appellant submits that the Tribunal has assessed the income of deceased unreasonably low at least Rs.1500/- per

month, when the accident is of December, 2008. He submits that the income of the deceased ought to have been much more than what has been assessed by the Tribunal as the deceased in the instant case was working as a labourer and earning her income. He further submits that the multiplier applied is also not in accordance with the principles laid down in the case of **“Sarla Verma & Ors vs Delhi Transport Corp. & Anr.” (2009) 6 SCC 121**), so also the compensation under the conventional head also deserves suitable enhancement.

4. Counsel for the Insurance Company however opposing the appeal submits that it is a case whereby the claim application has been filed by the married daughter and therefore she should not be entitled for any enhancement as the award passed by the Tribunal is just and reasonable. He further submits that the Claimant therein were not in any manner dependent on the deceased at the time of accident with which she can claim for enhancement of the compensation.
5. Having heard the rival contentions put forth on either side, the evidence which have come on record is that the deceased in the instant case Smt. Ganga Bai was aged around 60 years and that she was working as a labourer. Undisputedly in the year 2008, the minimum income which an unskilled labour was earning would had been much more than Rs.100/- a day i.e. Rs.3,000/- a month and Rs.36,000/- annually. The assessment of Rs.1500/- a month by the Tribunal is extremely and unreasonably on the lower side and same deserves to be assessed higher. This Court considering the facts of

case assesses the income of the deceased at Rs.36,000/- per annum @ Rs.3000/- a month.

6. Considering Rs.36,000/- as the yearly income, if 1/3 of the same is deducted towards personal expenses, the amount would come to Rs.24,000/- and if the said amount is multiplied applying the multiplier of 9, the amount would come to Rs.2,16,000/-. In addition, the Claimant shall also be entitled for a lump sum compensation of Rs.34,000/- towards conventional head to make the total compensation payable at Rs.2,50,000/- instead of Rs.62,000/- as awarded by the Tribunal.
7. The said enhanced amount shall also carry interest at the same rate as has been assessed by the Tribunal.
8. The appeal thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge