

NAFR**HIGH COURT of CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 54 of 2017**

1. Smt. Satyawati W/o Late Govind Ram, aged about 32 years, R/o Village- Karra, P.S. & Tahsil- Rajpur, Distt. Balrampur-Ramanujganj, Chhattisgarh
2. Ku. Sangeeta D/o Late Govind Ram, aged about 14 years, minor through natural guardian mother Smt. Satyawati, R/o Village- Karra, P.S. & Tahsil- Rajpur, Distt. Balrampur-Ramanujganj, Chhattisgarh
3. Ku. Mangeeta D/o Late Govind Ram, aged about 12 years, minor through natural guardian mother Smt. Satyawati, R/o Village- Karra, P.S. & Tahsil- Rajpur, Distt. Balrampur-Ramanujganj, Chhattisgarh
4. Ku. Geeta D/o Late Govind Ram, aged about 10 years, minor through natural guardian mother Smt. Satyawati, R/o Village- Karra, P.S. & Tahsil- Rajpur, Distt. Balrampur-Ramanujganj, Chhattisgarh
5. Smt. Bifo W/o Jagdev, aged about 40 years, R/o Village- Karra, P.S. & Tahsil- Rajpur, Distt. Balrampur-Ramanujganj, Chhattisgarh
(Claimants)

---- Appellants**Versus**

1. Abdul Navi S/o Emdad Ali, aged about 45 years, R/o near Mahamaya Mandir Nawagarh (Permanent R/o Barejpara Ambikapur) P.S. & Tahsil Ambikapur, Distt. Surguja, Chhattisgarh(Driver)
2. Vishwajeet Kumar Singh S/o Devendra Kumar Singh, aged about 46 years, R/o Village- Ghataro, P.S. Baishali, Distt. Katihar (Bihar)(Owner)
3. The Branch Manager, the National Insurance Company Division Office B-1 Taha Complex Ring Road No.1 Vyapara Vihar Bilaspur Distt. Bilaspur, Chhattisgarh(Insurer)

---- Respondents

For Appellants	:	Shri A. N. Pandey, Advocate
For respondent no.3	:	Shri Anil Gulati, Advocate

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

05/07/2017

Heard on I.A. No.01/17 for condonation of delay in filing the appeal.

2. For the reasons assigned in the said application and finding them to be satisfactory, I.A. No.01 is allowed and the delay of 186 days in filing the appeal stands condoned.

3. Heard on admission.

4. Challenge in the present appeal is the award dated 02.04.2016 passed by the 3rd Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja (CG) in Additional M.A.C. Case No.9/2014. Vide the impugned order the Claims Tribunal has awarded an amount of Rs.6,06,000/- as compensation with interest @ 6% from the date of application.

5. The case of the claimants in brief is that deceased Govind Ram aged about 35 years met with an accidental death on 16.05.2014 when the Maruti car in which he was travelling was dashed by a truck coming from the opposite direction driven by respondent no.1 and owned by respondent no.2. The family members of the deceased moved a claim application before the Motor Accident Claims Tribunal under the provisions of Section 166 of the Motor Vehicles Act.

6. The Tribunal considering the entire facts which has come before it, vide impugned award dated 02.04.2016 granted compensation to the tune of Rs.6,06,000/- to the claimants. For the purpose of calculating compensation, the Tribunal has taken monthly wages of the deceased to be Rs.4,500/- and calculated Rs.5,76,000/- under the head of loss of income. In addition, the Tribunal has paid an amount of Rs.30,000/- under the other heads like love and affection, consortium and funeral expenses.

7. It is this award which has been challenged by the appellants/claimants seeking enhancement.

8. Contention of the counsel for the claimants is that the Tribunal while granting compensation has not considered the future rise in income. Likewise the compensation paid on the other heads i.e. love and affection, consortium and funeral expenses is also on the lower side considering the fact that the accident had occurred in the year 2014. Thus, prayed for modification of the impugned award suitably to that extent.

9. Counsel for the insurance Company, however, opposing the appeal submits that there is no scope of interference left since the impugned award is fair and reasonable. He submits that the Tribunal, taking into consideration the entire factual matrix of the case, has awarded the compensation of Rs.6,60,000/-, therefore prays for dismissal of the appeal.

10. Having considered the rival contentions put forth on either side and on perusal of the record, when we take into consideration the judicial pronouncements that have been passed in recent past, right from the landmark judgment in the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** and the subsequent judgments, it would reflect that it has been the constant opinion/view of the Supreme Court that while granting compensation the future prospects also should be born in mind. In the instant case, the deceased was a labour whose income has been assessed by the Tribunal at Rs.150/- per day. This income by efflux of time would definitely have increased substantially. It also cannot be lost sight of the fact that the deceased at the time of accident was a young man of only 35 years.

11. For the aforesaid reasons, this Court is of the opinion that the impugned award deserves to be interfered to the extent that the claimants shall also be entitled for compensation under the head of future prospects and for quantifying the same, the Tribunal should have at least added 50% to the actual income for the purpose of calculating the compensation under the head

of future prospectus or the future rise of income. Further if we look into the compensation awarded under the other heads, it is apparently clear that the amount awarded by the Tribunal under the other heads is also on a much lower side. In all the claimants have been granted only Rs.30,000/- under the different heads i.e. love and affection, consortium and funeral expenses. In the opinion of this court, the amount awarded under other heads also deserves to be enhanced from Rs.30,000/- to Rs.1,00,000/-.

12. In the given circumstances, if 50% towards future prospects is taken into consideration, the amount would be Rs.4,32,000/- of which after deduction of 1/3 for the personal expenses, the compensation which would be payable to the claimants would be Rs. 2,88,000/-. The claimants would also be entitled for an additional amount of Rs.70,000/- under the other heads in addition to Rs.30,000/- which has already been awarded by the Tribunal. Thus, the claimants would be entitled for the total enhanced amount of Rs.3,58,000/- as compensation in addition to what has already been awarded. The respondent Insurance Company is directed to deposit the compensation enhanced by this Court of Rs.3,58,000/- within a period of three months from the date of receipt of the certified copy of this order

13. With the aforesaid modification to the impugned award, the appeal stands allowed.

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