

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 472 of 2009**

Deenanath Dubey S/o Deviprasad, aged about 25 years, R/o Hemunagar, Bilaspur, Tahsil and District - Bilaspur Chhattisgarh

---- Appellant**Versus**

Iffco - Tokio General Insurance Company Limited, Through: Branch Manager, 3rd Floor, 345-347, Shopping Mal, G.E. Road, Raipur, District Raipur Chhattisgarh.

---Respondent

For Appellant	:	Mr. O.P. Agrawal, Advocate
For Respondent	:	Mr. Amrito Das and Mr. P. Acharya, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order on Board****13/09/2017**

1. The present is an appeal by the claimant under Section 173 of Motor Vehicles Act. Vide the said impugned award, in a proceeding under Section 163-A of Motor Vehicles Act, the Tribunal has awarded a lump sum compensation of Rs.51,000/- to the appellant/claimant with interest @ 12% per annum from the date of application.
2. The contentions of the counsel for the appellant is that the claimant in the instant case was the son of the deceased and that he was solely dependent upon the deceased at the time of accident and therefore the awarding of Rs.51,000/- is unreasonably low and same deserves for suitable enhancement. He further submits that the deceased in the instant case was an Auto Driver, who was earning approximately Rs.3,300/- a month, but the income part has not been properly taken into consideration by the Tribunal while quantifying the compensation. The counsel for the appellant further submits that the Tribunal ought to have considered the income of the deceased and have also applied the multiplier while quantifying the compensation instead of giving a lump sum compensation.
3. The counsel for the respondents however opposed the appeal and submits that the impugned award is based on evidence which has

come on record and therefore the same does not warrant any interference and pleaded for the rejection of the appeal.

4. Having heard the counsel for the parties and on perusal of the record, this Court is of the opinion that the amount of compensation awarded by the Tribunal is definitely unreasonably low and the same deserves for suitable enhancement. The fact that the claimant was the son of the deceased only because he was an adult by itself would not mean that he was not entitled for compensation. This Court is of the opinion that even if the appellant would had been earning some income for sustenance that by itself cannot be taken as a ground for denying compensation for the death of his father, particularly when he was the sole legal representative alive of the deceased.
5. Thus accepting the income of the deceased at the time of accident to be Rs.3,300/- if we compute the compensation, it would be Rs.39,600/- in year of which if 1/3 is deducted towards personal expenses, the amount would reach to Rs.26,400/-, which if applied by applying the multiplier of 8 shall reach to Rs.2,11,200/- and thus it is ordered that the claimant shall be entitled for compensation of Rs.2,11,200/- towards loss of dependency instead of Rs.51,000/- awarded by the Tribunal. In addition, the claimant shall also be entitled for compensation of Rs.2,000/- towards funeral expenses, Rs.2,500/- towards loss of estate. Thus, total compensation payable to the appellant shall be Rs.2,15,700/- instead of Rs.51,000/-. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.
6. The appeal thus allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge