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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (C) No. 354 of 2007

1. Smt. Rekha Uike aged about 20 years widow of Late Sukendra Singh
2. Kumari Nisha Uike aged about 11 months (minor) daughter of Late Sukendra Singh
3. Sumit Uike aged about 3 months (minor) son of Late Sukendra Singh Uike

Appellants No.2 to 3 are minors through their natural guardian mother Smt. Rekha Uike

4. Lalji Singh Uike aged about 49 years son of Shri Jailal Singh Uike
5. Adhariya Bai aged about 44 years wife of Shri Lalji Singh Uike

All are Gond by caste resident of Umjhariya Post Beed PS Jaithari District Anuppur MP

---- Appellants

Versus

1. Amol Singh aged about 30 years son of Shri Ram Prasad Gond resident of Nimdha PS Marwahi Tahsil Marwahi District Bilaspur Chhattisgarh
2. Anand Jayaswal aged about 42 years son of Shri Heeralal Jayaswal caste Kalar resident of village Nimdha PO Nimdha PS Marwahi Tahsil Marwahi District Bilaspur Chhattisgarh
3. The Divisional Manager The Oriental Insurance Company Limited in front of High Court Bilaspur Chhattisgarh

---- Respondents

For Appellants	: None.
For Respondents	: None.

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

10/02/2017

1. This appeal by the claimant for enhancement of compensation is directed against the award dated 12.12.2006 passed by the Additional Motor Accident Claims Tribunal, Pendra Road, District Bilaspur in Claim Petition No.9 of 2006, whereby the learned Claims Tribunal awarded the

compensation of Rs.2,81,500/- in favour of the claimants and held the Respondents jointly and severally to pay the same.

2. Since the only question in this case is with regard to the quantum of compensation, it is not necessary to give details of other facts of the case. Deceased- Sukendra Singh was aged about 22 years on the date of the accident. He left behind his widow, aged about 20 years, two minor children, aged about one year and two months respectively and also his mother. It was alleged that the deceased was an agriculturist and vegetable seller. On the basis of evidence, the Claims Tribunal assessed the income of the deceased at Rs.2000/- per month i.e. Rs.24,000/- per year. After deducing 1/3rd towards his personal expenses, his income was assessed at Rs.16,000/- per year. Since the deceased was 22 years, multiplier of 17 was applied and the Claims Tribunal assessed the compensation at Rs.2,72,000/-. In addition to this, Rs.2000/- towards funeral expenses, Rs.5000/- towards loss of consortium and Rs.2500/- towards general damage were also awarded. Therefore, the Claims Tribunal awarded total compensation of Rs.2,81,500/- to the claimants.

3. The accident took place in the year 2005. Even in the year 2005, any grown up able bodied person would have earned at least Rs.150-200/- per day. Therefore, the Claims Tribunal gravely erred in taking the income of the deceased at only Rs.2000/- per month and it could not be less than Rs.4500/- per month. In addition thereto, 50% has to be added towards his income for future prospects and therefore, it works out to Rs.6750/- per month. The deceased left behind his widow, minor children and mother, therefore, I deduct 1/3rd towards the personal expenses of the deceased, leaving the balance of Rs.4500/- per month i.e. Rs.54,000/- per year. Since the deceased was aged about 22 years on the date of accident, the relevant

multiplier as per ***Sarla Verma (Smt.) and Others v. Delhi Transport Corporation and another, (2009) 6 SCC 121***, would be 18 and the compensation for loss of dependency on this count works out to Rs.9,72,000/-. In addition thereto, the widow is held entitled to Rs.50,000/- for loss of consortium and the claimants are held entitled to Rs.28,000/- towards funeral expenses and other post death expenses. Therefore, the total compensation works out to Rs. (9,72,000 + 50,000 + 28,000) = Rs.10,50,000/- (rupees ten lakh fifty thousand).

4. In view of the above discussion, the appeal is allowed. The award of the learned Claims Tribunal is modified and the compensation is enhanced from Rs.2,81,500/- to Rs.10,50,000/-, i.e. by Rs.7,68,500/-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount. The compensation so awarded is apportioned as follows:-

Widow (Smt. Rekha Uike)	Rs.3,00,000/-
Daughter (Kumari Nisha Uike)	Rs.2,50,000/-
Son (Sumit Uike)	Rs.2,50,000/-
Mother (Adhariya Bai)	Rs.2,50,000/-

5. Out of the amount payable to the widow-Smt. Rekha Uike and mother-Adhariya Bai Rs.50,000/- each shall be released and the rest shall be kept in Fixed Deposit for a period of five years at the first instance. As far as the amount falling to the share of minor children is concerned, the entire amount shall be kept in Fixed Deposit till they attain the age of 21 years. However, the interest accruing on the deposit of the mother shall be remitted to her bank account on quarterly basis. The interest accruing on the deposit of the widow and two minor children shall be paid to the widow for upkeep of the

family by remitting it to her bank account on quarterly basis.

6. The Insurance Company was exonerated on the ground that the driver of the vehicle did not have a license to drive a transport vehicle. He only possessed a license to drive a light motor vehicle. It is not disputed that the motor vehicle in question was a jeep, which is a light motor vehicle. The only issue is whether there any endorsement of transport vehicle was required.

7. Assuming that this endorsement is necessary, this violation is not of such a nature that the Insurance Company can be totally exonerated and at best, the Insurance Company can be given right to pay and recover the amount from the owner. This portion of the award of the Claims Tribunal is set aside. It is held that the Insurance Company shall be liable to pay the amount of compensation but shall be entitled to recover the same from the owner of the vehicle.

8. It is further directed that the Insurance Company after depositing the amount of compensation can initiate the proceedings under Section 174 of the Motor Vehicles Act for recovering the amount from the owner of the vehicle and shall not be required to file a separate suit or any other proceedings for recovery of the same.

9. The appeal is allowed in the aforesaid terms.

10. Send down be Claims Tribunal's records.

Sd/-
(Deepak Gupta)
Chief Justice

Anu