

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1590 OF 2016

Branch Manager, Shri Ram General Insurance Co. Ltd., E0-8 EPIIP Ricco Industrial Area, Sitapura, Jaipur, Rajasthan 302022

... Appellant

Versus

1. Minor Sulendra Kumar Mandavi S/o Late Mayaram Mandavi, aged about 9 years.
2. Minor Ku. Yougita Mandavi, D/o Late Mayaram Mandavi, aged 6 years
3. Minor Dikeshwar Mandavi, S/o Late Mayaram Mandavi, aged 3 years
4. Smt. Rambati Mandavi, W/o Late Lachharam Mandavi, aged 62 years
Minor Respondents No. 1 to 3 through natural guardian grand mother Respondent No.4, all residents of Gram Bhanpuri, Tahsil Farasgaon, District Kondagaon (C.G.)
5. Jitesh Singh Thakur, S/o Ramesh Singh Thakur, aged 24 years, R/o Gram Dubai Umargaon, Thana Bhanpuri, District Bastar (C.G.), present address Krindul, District Dantewada (C.G.)

... Respondents

For Appellant	:	Mr. Deepak Gupta, Advocate.
For Respondents	:	Mr. A.L. Singroul, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/01/2017

1. Heard on I.A. No.1 of 2016, which is an application for condonation of delay in filing the present appeal.
2. For the reasons assigned therein and finding them to be satisfactory, I.A. No.1 is allowed and the delay of 30 days occurred in the filing of the present appeal is hereby condoned.
3. Heard on admission.
4. The Appellant-Insurance Company in the instant case has assailed the order dated 12.7.2016 passed by the Motor Accident Claims Tribunal, Kondagaon, District Kondgaon, in Claim Case No. 83 of 2014.
5. By way of the impugned order dated 12.7.2016, the Court below has allowed the application under Section 166 of the Motor Vehicles Act preferred by Respondents No. 1 to 4/Claimants and has granted a compensation of Rs. 12,32,750/- in favour of Respondents No. 1 to 4 for the death of Mayaram

Mandavi in a vehicular accident, who was the father of Respondents No.1 to 4 and the son of Respondent No.4.

6. The Appellant-Insurance Company challenges the impugned order only on the issue of quantum.

7. According to the Counsel for the Appellant-Insurance Company, the notional income drawn by the Claims Tribunal is on the higher side as the Claims Tribunal without any proper basis has assessed the notional income as Rs.4500/- per month for the purpose of ascertaining the compensation. This according to the Counsel for the Appellant is contrary to the evidence which have come on record and deserves to be interfered with.

8. Counsel for Respondents No. 1 to 4/Claimants submits that the impugned order does not warrant any interference for the reason that the finding arrived at by the Claims Tribunal is quite reasonable. According to him, the minimum wage of a worker even if he would have gone as an unskilled labour would had been more than Rs.200/- a day on the date of accident and if that is taken as the wage of a worker, the monthly wage of the worker would be more than Rs.6000/-. Whereas, in the instant case, the Claims Tribunal has only taken the notional income of Rs.4500/- per month which if distributed in 30 days of a month, would only be Rs.150/- a day and which cannot under any circumstances said to be exorbitant or on the higher side.

9. Since the Appellant-Insurance Company has not questioned any other issue in the present appeal, this Court is of the opinion that the calculation made by the Claims Tribunal for ascertaining the compensation taking the notional income to be Rs.4500/- per month is proper, legal and justified and the same does not warrant any interference.

10. The appeal thus being bereft of merits the same is accordingly dismissed in *limine*.

Sd/-
(P. Sam Koshy)
Judge