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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 506 of 2007

1. Smt. Kaushliya Bai W/o Ramkumar, aged about 36 years, R/o village Amarpur, Police Station Pendra, Tehsil Pendraroad, District Bilaspur (CG)
2. Mahendra Kumar S/o Ramkumar, aged 13 years,
3. Sandeep Kumar Patel, aged about 12 years,

   Respondents 2 & 3 both are minor through mother Kaushliya Ba W/o Ramkumar, All R/o village Amarpur, PS. Pendra, Tehsil Pendraroad, District Bilaspur (CG)

---- Appellants

Versus

1. Rajnarayan S/o Basantram, aged 34 years,
2. Ramkumar S/o Basabtram, aged about 39

   Both by caste Kurmi, R/o village Amarpur, P.S. Pendra, Tehsil Pendraroad, District Bilaspur (CG)
3. United India Insurance Company Limited, Branch Office Bilaspur, District Bilaspur (CG)

---- Respondents

For Appellants	:	Shri G. V. K. Rao, Advocate
For Respondent No.3	:	Shri Dashrath Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

27/09/2017

Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act seeking for enhancement of the compensation awarded in Claim Case No.21/2006 passed by the Motor Accident Claims Tribunal (FTC), Pendraroad (CG) on 27.01.2007. Vide the impugned award, the Tribunal has awarded a compensation of Rs.1,00,000/- with interest @ 10% per annum from the date of application.

2. Counsel for the appellants submits that it is a case where the deceased met with an accidental death on 06.02.2006 and considering the age of the deceased i.e. about 21 years, the notional income assessed by the Tribunal is on the lower side. He submits that the amount awarded under the conventional head is unreasonably low. It is also contended that the Tribunal has wrongly computed the compensation by making repeated deductions from the compensation quantified and as such the entire amount of compensation needs to be reconsidered and a fresh order may be passed enhancing the compensation suitably.

3. Counsel for the Insurance Company, however, opposing the appeal submits that it is a case where the deceased was the son of the owner of the vehicle and he was travelling in the tractor in contravention to the policy condition and that he was also sitting on the body of the tractor when the accident occurred. Therefore, the Insurance Company should not be saddled with the payment of compensation beyond what has already been awarded.

4. A perusal of the record would show that the Insurance Company against the impugned award had preferred an appeal which was registered as MAC No. 730/2007. The said appeal got dismissed on merits vide order dated 06.01.2014. In view of the appeal of the Insurance Company getting dismissed on merits, this Court is of the opinion that the contention raised by the Insurance Company would not be sustainable in the present appeal preferred by the claimants seeking for enhancement. All that this Court has to see is whether the amount of compensation awarded is just and reasonable or not.

5. In the instant case, the income of the deceased assessed by the Tribunal as Rs.15,000/- yearly is extremely on the lower side considering the period of accident. The date of accident in the instant case is 06.02.2006. In the year 2006, undisputedly even an unskilled labourer would have earned more than Rs.100/- a day. Therefore, under no circumstances could the Tribunal have assessed the notional income of the deceased less than Rs.3,000/- a month i.e. Rs.36,000/- yearly. Therefore, the assessment of notional income of

Rs.15,000/- yearly by the Tribunal not being sustainable deserves to be suitable enhancement. Accordingly, this Court holds the income of the deceased to be Rs.36,000/- yearly for the purpose of quantification of compensation.

6. Accepting Rs.36,000/- as yearly income, if 50% of which is deducted towards personal expenses the amount comes to Rs.18,000/-. If the said amount is multiplied by applying the multiplier of 18 considering the guidelines of the Supreme Court in the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**, the amount reaches to Rs.3,24,000/-. It is ordered that the claimants would be entitled for a compensation of Rs.3,24,000/- towards loss of dependency. So far as the compensation under conventional head is concerned, given the factual matrix of the case, this Court is of the opinion that ends of justice would meet if a lump sum compensation of Rs.76,000/- is awarded under the conventional head to make the total compensation payable to the claimants at Rs.4,00,000/- in stead of Rs.1,00,000/- as awarded by the Tribunal. It is ordered accordingly. Considering the fact that it is a case of the year 2006, the enhanced amount shall carry interest @ 7.5% in stead of 10% as fixed by the Tribunal.

7. The appeal thus stands allowed.

Sd/-

(**P. Sam Koshy)**
JUDGE

Bhola