

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 318 of 2006

1. Smt. Shaili Mukherjee, aged about 45 years, W/o. Pradeep Kumar Mukherjee,
 2. Pradeep Kumar Mukherjee, aged about 50 years, S/o. Ajit Kumar Mukherjee,
- Both are R/o. Rajkumar College Campus, Raipur, P.S. Azad Chowk, Raipur, Chhattisgarh

---- Appellants

Versus

1. Mohammad Rafiq @ Bablu, aged about 30 years, S/o. Mohammad Shafi Musalman, R/o. Mahamaya Ward, Kawardha, P.S. Kawardha, District Kawardha, Chhattisgarh
2. Abdul Faim, S/o. Abdul Salim, R/o. Raj Motor Works, Rahmania Chowk, Raipur, Tahsil and District Raipur Chhattisgarh
3. The Oriental Insurance Com. Ltd. Branch Office No.2, Through the Branch Manager, Branch Office, Kachahari Chowk, Jail Road, Raipur Chhattisgarh

---Respondents

AND

MA No. 311 of 2006

1. Smt. Chandrakali Vishvakarma, Aged about 45 years, W/o. Bharat Vishvakarma,
 2. Bharat Vishvakarma, Aged about 50 years, S/o. Late Bhuvanlal Vishvakarma
- Both are R/o. Lohar Chowk, In front of Saraswati School, Purana Basti, Raipur, Tahsil and District Raipur Chhattisgarh

---- Appellants

Versus

1. Mohammad Rafiq @ Bablu, aged about 32 years, S/o. Mohammad Shafi Musalman,
2. Abdul Faim, S/o. Abdul Salim, R/o. Raj Motor Works, Rajmania Chowk, Raipur, Tahsil and District Raipur Chhattisgarh
3. The Oriental Insurance Com. Ltd. Branch Office No.2, Through the Branch Manager, Branch Office, Kachahari Chowk, Jail Road, Raipur, Chhattisgarh

---Respondents

For Appellants	:	Mr. Akhilesh Mishra, Advocate
For Insurance Company	:	Mr. Ratan Pusty, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/11/2017

1. These are two appeals arising out of two awards dated 13.12.2004, passed by the 13th Additional Motor Accident Claims Tribunal (FTC) Raipur, Chhattisgarh, in two Claim Cases Nos.13/2004 and 14/2004. Both these Claim cases arise out of the same accident which arose on 26.09.2003 when the two deceased persons Kunal and Shani @ Lallu were traveling in a Tata Sumo bearing registration No. CG-04-ZD-2255 dashed with a stationary Tractor.
2. The legal representatives of Kunal filed a Claim Case No. 14/2004 and the legal representatives of Shani @ Lallu filed a Claim Case No. 13/2004. In the Claim case filed by the legal representatives of the deceased Kunal the amount awarded by the Tribunal is Rs.1,67,000/- and in the Claim case filed by the legal representatives of Shani @ Lallu, the amount awarded by the Tribunal is Rs.1,82,000/-.
3. MAC No. 318/2006 arise out of Claim Case No. 14/2004 in respect of the deceased Kunal aged around 20 years and MAC No. 311/2006 arise out of Claim Case No. 13/2004 pertaining to the deceased Shani @ Lallu aged around 22 years. The deceased Kunal had died on the spot on the same day on 26.09.2003 whereas the deceased Shani @ Lallu had died after 4 days i.e. on 30.09.2003. The two appeals are by the Claimants seeking for enhancement.
4. Counsel for the appellants submits that the income assessed and the amount of compensation awarded is on the lower side and therefore the amount deserves to be suitably enhanced. He submits

that the Tribunal has wrongly assessed the compensation taking into consideration the age of the Claimants i.e. the parents in both the cases and pray that the calculation be made in accordance with the principles that has been laid by the Hon'ble Supreme Court in the case of ***"Sarla Verma & Ors vs Delhi Transport Corp. & Anr."*** ***(2009) 6 SCC 121***).

5. The counsel for the Insurance Company however opposing the appeal submits that the plain reading of the award would show that the amount of compensation awarded is just and reasonable and has been passed taking note of the evidence which has come on record.
6. Having heard the counsel appearing on either side and on perusal of record, true it is that the legal position as of now stands well settled that all compensation cases under the Motor Vehicle Act, the guiding principles, which are applied are the one which has been laid by the Hon'ble Supreme Court in the case of "Sarla Verma" (supra) and all subsequent decisions thereon.
7. The Hon'ble Supreme Court in the said judgment has categorically held that the calculation of the multiplier to be applied would be depending upon the age of the deceased and not the age of the parents or the claimants.
8. The income in both the cases assessed by the Tribunal is Rs.2000/- which according to the counsel for the appellants is unreasonably low as in the year 2003 i.e. the period of accident the minimum income of a daily wage worker also would had been much more and therefore the income should had been suitably assessed and the

compensation quantified. So also he submits that the Tribunal has not taken into account the income towards future prospects while quantifying the compensation.

9. Considering the facts and circumstances of the case and taking note the period of the accident i.e. September, 2003, this Court assesses the income of the two deceased persons at Rs.3000/- a month taking Rs.100/- as the minimum income which they would had been earning during the said time, which would bring the yearly income at Rs.36,000/-.
10. The claimants in both the cases would also be entitled for 40% of the income towards future prospects, which would make it Rs.14,400/-, thus the total annual income would come to Rs.50,400/-. Since both the deceased persons were bachelors, the deduction towards personal expenses would be 50%, which would bring the amount to Rs.25,200/- and in both the cases, the multiplier to be applied would be 18 which would bring the total figure at Rs.4,53,600/-. It is ordered accordingly that the claimants in both the appeal shall be entitled for loss of dependency of Rs.4,53,600/-. In addition, this Court further quantifies the compensation under the conventional head at a lump sum amount of Rs.46,400/- to make the total compensation payable at Rs.5,00,000/-. In addition, the claimants in Claim Case No. 13/2004 i.e. MAC No. 311/2006 shall also be entitled for the amount of Rs.15,000/- quantified by the Tribunal towards medical expenses incurred on the deceased Shani @ Lallu during the 3-4 days treatment that had been given before his death. Accordingly, both these appeals stands allowed. The Claimants in MAC No. 318/2006 shall be entitled for a compensation of

Rs.5,00,000/- instead of Rs.1,67,000/- and the Claimants in MAC No. 311/2006 shall be entitled for a compensation of Rs.5,15,000/- instead of Rs.1,82,000/- as awarded by the Tribunal.

11. As regards the interest is concerned, taking into consideration the fact that the appeals are of the year 2006 and the Claim application was filed in the year 2003, this Court is of the opinion that ends of justice would meet if the rate of interest on the enhanced amount is fixed at 6% from the date of application.

12. The appeals thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved