

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1192 of 2010**

1. Devendra Sahu S/o Khem Lal Sahu, aged about 51 years, R/o village Borenda, Post Kesra, Tahsil Patan, District Durg (CG)
2. Smt. Chandrakanta W/o Devendra Sahu, aged about 49 years, R/o village Borenda, Post Kesra, Tahsil Patan, District Durg (CG)
3. Ku. Lakeshwari Sahu D/o Devendra Sahu, aged about 23 years R/o village Borenda, Post Kesra, Tahsil Patan, District Durg (CG)

---- Appellants**Versus**

1. Srawan Kumar Yadav S/o Santosh Kumar Yadav, aged about 21 years, R/o near Gaurchoura, Station Road, Ward Industrial , Dhamtari, Tahsil and District Dhamtari (CG) (Driver of the offending vehicle)
2. M/s Sharda Rice Industries, Proprietor Mahesh Agrawal, F.C.I. Road, Adhari Navagaon, Dhamtari, Tahsil and District Dhamtari (CG) (Owner of the offending vehicle)
3. Divisional Manager, the Oriental Insurance Company Limited, Madina Building, Jail Road, Raipur, District Raipur (CG)

---- Respondents

For Appellants	:	Shri Vinay Pandey, Advocate
For Respondents 1 & 2	:	Shri S. P. Sahu, Advocate
For Respondent no.3	:	Shri Sudhir Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/09/2017**

Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act seeking for enhancement of the compensation. The challenge is to the award dated 26.08.2010 passed by the Principal Motor Accident Claims Tribunal, Dhamtari (CG) in Claim Case No. 96 of 2009. Vide the impugned award the Tribunal has granted a compensation of Rs. 2,42,000/- with interest @ 6% per annum from the date of application.

2. Counsel for the appellant assailing the impugned award submits that the Tribunal has not considered the future prospects while quantifying the compensation. Likewise, the multiplier applied and also the compensation awarded under the conventional head also deserve suitable enhancement as the amount of compensation is unreasonably low.

3. Counsel appearing for the Insurance Company, however, opposing the appeal submits that since it is a case where the deceased was only 18 years at the time of accident, the amount of compensation awarded is fair, just and reasonable and does not warrant interference.

4. Having heard the contentions put forth on either side and on perusal of the record, this Court is of the opinion that since the income of the deceased claimed by the claimants was Rs.4,000/- a month to which a certificate was also issued, the assessment regarding monthly income made by the Tribunal is proper, legal and justified. However, the Tribunal ought to have taken into consideration the future prospects while quantifying the compensation. Considering the age of the deceased to be 18 years at the time of accident, 50% of the monthly income towards future prospects should also have been awarded. Thus, adding 50% towards future prospects would make the income of the deceased to Rs.6,000/- a month and Rs.72,000/- yearly, of which if 50% is deducted towards personal expenses, the amount would reach to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 18 in stead of 10 as assessed by the Tribunal, the amount would become Rs.6,48,000/-. Thus, the claimants would be entitled for Rs.6,48,000/- for the loss of income.

5. So far as compensation under conventional head is concerned, this Court is of the opinion that awarding of Rs.2,000/- towards funeral expenses is unreasonably low and the same deserves to be suitably enhanced. Keeping

in view the decision of the Hon'ble Supreme Court in the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54**, this Court is of the opinion that ends of justice would meet if the total amount under the conventional head is enhanced to Rs.1,25,000/- from Rs.2,000/- as awarded by the Tribunal. It is ordered accordingly. Thus, the claimants shall be entitled for a total compensation of Rs.7,73,000/- in stead of Rs.2,42,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.

6. The appeal thus stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**