

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal (C) No. 1212 of 2007**

1. Bisuram mandavi (deleted).
2. Smt. Lakhami Bai, W/o Bisuram, 40 years
Both R/o Schoolpara, Village Gumda, P.S. Geedam at present Metgudapara,
P.S.Bodhghat, Jagdalpur, District Bastar, Chhattisgarh.

----Appellants**Versus**

1. Raju @ Ramu @ Muttaiya Dorla, S/o Antalu Rangaiya, 45 years, R/o Village Murdanda, P.S. Avapalli, District Dantewada.
2. Virendra Kumar Sharma, S/o Ram Gopal Sharma, R/o Vinay Nagar, Sector 3 Gwalior at present Shanti Nagar Ward, Jagdalpur, District Bastar, Chhattisgarh.
3. The United India Insurance Company Limited, Through Branch Manager, in front of Anupama Talkies, Jagdalpur, District Bastar.

----Respondents.

For Appellant	:	Shri Keshav Dewangan, Advocate.
For Respondent No.3	:	Shri Dashrath Gupta, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice**Judgment on Board****03/02/2017**

1. This appeal by the Claimants for enhancement of the compensation is directed against the award dated 16.08.2007 delivered by the learned Motor Accident Claims Tribunal, Bastar at Jagdalpur (hereinafter called "the Tribunal") in Claim Case No.293 of 2006 whereby the Tribunal awarded a sum of Rs.1,06,000/- as compensation to the Claimants.
2. Since the only issue involved in this case is enhancement of the compensation, it is not necessary to give details of other facts of the case. Deceased Laluram was aged about 18 years and the Claimants are his parents. The accident occurred on 07.05.2005. The Claimants claimed that deceased

Laluram was a skilled labourer. The case was contested by the Insurance Company mainly on the ground that the driver did not have a valid driving licence and there was no proper permit. The learned Tribunal awarded a sum of Rs.1,06,000/- as compensation and directed the Insurance Company to pay the same, but gave right to recover the same from the owner of the offending vehicle. The Insurance Company has not challenged the award.

3. Even in the year 2005, a labourer would have earned at least Rs.100/- per day and therefore, the income of the deceased in the year 2005 is assessed at Rs.3,000/- per month. Since the deceased was only aged about 18 years, 50% shall have to be added to this income on account of future prospects of the deceased and therefore, his income works out to Rs.4,500/- per month. 50% of the income is deducted towards personal expenses of the deceased, which leaves the monthly dependency at Rs.2,250/- or Rs.27,000.- per annum. Since the deceased was only aged about 18 years, multiplier of 18 is applied and the compensation works out to Rs.4,86,000/-. In addition thereto, the Claimants are held entitled to Rs.14,000/- for funeral expenses and another sum of Rs.50,000/- for loss of love and affection of their son. The total compensation is accordingly assessed at Rs.5,50,000/- (Rs.4,86,000/- + 14,000/- + 50,000/-). Thus, the amount of compensation of Rs.1,06,000/- awarded by the Tribunal is enhanced to Rs.5,50,000/-. On this amount of compensation, the Claimants shall also be entitled to interest @9% per annum from the date of filing of their claim petition till payment/deposit of the full amount of compensation. Obviously, the Insurance Company shall be entitled to deduct/adjust the amount of compensation, if any, which it had already paid or deposited. The entire amount shall be payable to the mother.

4. In view of the above discussion, the appeal is allowed and the award of the Tribunal is modified to the extent indicated above. However, It is clarified that in

terms of the award of the learned Tribunal, the Insurance Company shall be liable to deposit/pay the enhanced amount of compensation, but will be entitled to recover the same from the owner and driver of the offending vehicle by filing certificate proceedings under Section 174 of the Motor Vehicles Act and it shall not be required to file a separate suit or any other proceedings for recovery of the amount.

5. Send down the lower Court records forthwith.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE