

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.49 of 2006**

1. Smt. Shikha Das, W/o Late Shadev @ Samar Das, Aged about 30 yrs.
2. Ku. Rupa Das, D/o Late Sahdev @ Samar Das, aged about 7 yrs.
3. Smt. Bakul Rani Das, Wd/o Kalicharan Das, aged about 62 yrs.

Appellant No.2 is represented by legal guardian mother Smt. Shikha Das. All resident of Block No.7, House No.7/12, Mana Camp, Distt. Raipur (CG)

---- Appellants

Versus

1. Jamil Khan, R/o Mama Garage Kanker, Tah. & Distt. Kanker (CG)
2. Md. Rafik Khalakiya S/o Abdul Rafik Khalakiya, R/o Mama Garage, Purana Bass Taal Ganj, Distt. Raipur (CG)
3. The Oriental Insurance Co.Ltd. Branch Office Dhamtari, By Divisional Manager, Divisional Office, Kachahari Chowk, Jail Road, Raipur (CG)

---- Respondents

For Appellants	:	Mr.A.L.Singraul, Advocate
For Respondent No.3	:	Mr.Sudhir Agrawal, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

17/7/2017

1. This is claimants' appeal seeking enhancement of compensation awarded by the 12th Additional Motor Accident Claims Tribunal, Raipur (hereinafter called as 'the Tribunal') in Claim Case No.59//2006 vide its award dated 10.5.2006.
2. As against the compensation of ₹ 37,50,000/- claimed by unfortunate wife, daughter and mother of deceased-Sahdev by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter called as 'the Act') for his death in an accident on 13.11.2003, the Tribunal awarded a total sum of ₹ 2,65,100/- to the claimants along with

interest @ 6% per annum from the date of filing of claim petition till its actual payment, against which, this appeal has been filed.

3. Learned counsel for the appellants would submit that compensation awarded to the appellants/claimants is shockingly on lower side and it may be enhanced suitably.
4. On the other hand, learned counsel for respondent No.3 would submit that compensation awarded to the appellants is just and proper and no interference is called for.
5. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
6. It is true that the deceased was labourer. The Tribunal has taken the income of the deceased as ₹ 75/- per day for 26 days.
7. In the considered opinion of this Court, ₹ 100/- per day for labourer as on the date of incident i.e. 13.11.2003 would be reasonable, therefore, if his income would be considered as ₹ 100/- per day, monthly income would be ₹ 3000/- and annual income would be Rs.36000/- and after deducting 1/3rd of income of the deceased towards personal expenses, the appellants/claimants' annual dependency would be ₹ 24,000/-.
8. By multiplying the claimants' annual dependency of Rs.24,000/- with the multiplier of 16, which would be appropriate looking to the age of the claimants, the amount of compensation on account of loss of dependency would be ₹ 3,84,000/-. Apart from this, the claimants will be entitled for ₹ 1,00,000/- for loss of consortium as per decision of the Supreme Court in the matter of Bhogireddi Varalakshmi and

others Vs. Mani Muthupandi and others¹, ₹ 25,000/- for funeral expenses and ₹10,000/- for loss of estate and thus, the claimants would become entitle for ₹5,19,000/- as compensation in place of ₹ 2,65,100/- as awarded by the Tribunal.

9. For the foregoing reasons, the appeal filed by the claimants for enhancement of compensation is allowed in part. The total compensation of ₹ 2,65,100/- awarded by the Tribunal is enhanced to ₹ 5,19,000/-. The claimants are further entitled to receive ₹ 2,53,900/- over and above the amount awarded by the Tribunal. Enhanced amount of ₹ 2,53,900/- shall carry interest @ 6% per annum from the date of filing of claim petition till its actual payments. Award is modified to the above extent. Rest of the conditions mentioned in the award shall remain intact.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-