

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 303 of 2017**

Smt. Sukhari Bai Kewat W/o late Anand Ram Kewat, aged about 60 years,
R/o Village Portha, P.S. Dabhara, Tahsil Sakti, District Janjgir-Champa,
Chhattisgarh(Claimant)

---- Appellant**Versus**

1. Sawan Kumar Dewangan S/o Ghasi Ram Dewangan, aged about 30 years,
Occupation- owner & driver of vehicle, R/o Ward No.15, Sakti, P.S. &
Tahsil Sakti, District Janjgir-Champa, Chhattisgarh
2. National Insurance Co. Ltd., Korba, District Korba, Chhattisgarh
(Insurer)

---- Respondents

For Appellant	:	Shri H. P. Agrawal, Advocate
For Respondent no.2	:	Shri Q. Aziz, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14/12/2017**

Present is a claimant's appeal assailing the award dated 09.01.2017 passed by the 1st Additional Motor Accident Claims Tribunal, Sakti, District Janjgir Champa (CG) in Claim Case No. 71 of 2016. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.4,42,633/- with interest @ 6% per annum from the date of application.

2. Counsel for the appellant submits that the deceased in the instant case was a mason as such he was a skilled labour and the income assessed by the Tribunal is on the lower side. He submits that the claimants would also be entitled for the compensation calculating the income under the future prospects. He submits that since the accident is of the year 2016, the minimum income of the

deceased who was a skilled labour was much more than what has been assessed by the Tribunal. Thus, prayed for the compensation part to be suitably enhanced.

3. Counsel for the insurance company, however, opposing the appeal submits that taking into consideration the age of the deceased and the nature of proof adduced by the claimant before the Tribunal there does not seem any error committed by the Tribunal while quantifying the compensation and prayed for rejection of the appeal.

4. Having considered the contentions put forth on either side and on perusal of the record, undisputedly the date of accident in the instant case being 04.04.2016, the vehicle involved in the accident and the same being duly insured with respondent no.2 the Insurance Company are not in dispute. The evidence which has come on record shows that the deceased was a mason. Even otherwise in the year 2016, the minimum income of even an unskilled labour was more than Rs.200 a day i.e. more than Rs.6,000/- a month. Therefore, this Court assesses the wages of the deceased at Rs.6,000/- a month in stead of Rs.3,000/- as assessed by the Tribunal and proceeds to compute the compensation accordingly.

5. Taking into consideration the recent judgment of the Supreme Court, the claimant would also be entitled for 40% of the income towards future prospects which makes the monthly income at Rs.8,400/- and yearly income at Rs.1,00,800/-. If 50% of the said amount is deducted towards personal expenses, the amount would come to Rs.50,400/- which if multiplied applying the multiplier of 18, the amount would come to Rs.9,07,200/-. In addition, the claimant would also be entitled for Rs.40,000/- under conventional head and Rs.1,03,633/- towards medical expenses as assessed by the Tribunal. Thus, the claimant shall be entitled for a total compensation of Rs.10,50,833/- which for convenience sake is being rounded up to Rs.10,50,850/- in stead of

Rs.4,42,633/- 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**