

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 738 OF 2006

Smt. Mithilesh Kumari Sharma, aged about 58 years, W/o Late Shri Jeevan Lal Sharma, R/o Village & Post Mana Basti, Police Station- Mana Camp, Tahsil & District Raipur (C.G.)

... Appellant

versus

1. Rakesh Kumar, S/o Shri Bhopal Ram Sinha, R/o New Subhash Nagar, Tikrapara, Tahsil & District Raipur (C.G.)
2. Tikam Kumar Sinha, S/o Shri Bhopal Ram Sinha, R/o Village- Kendri, Post- Kendri, Police Station- Abhanpur, Tahsil- Abhanpur, District Raipur (C.G.)

... Respondents

For Appellant	:	Mr. Raj Awasthi, Advocate, as Amicus Curiae.
For Respondents	:	None present.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/10/2017

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the compensation awarded by 11th Additional Motor Accident Claims Tribunal (F.T.C.), Raipur, vide its award dated 31.8.2005 passed in Claim Case No. 80/2004.
2. Vide impugned award dated 31.8.2005, the learned Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, in a death case, has awarded a compensation of Rs.22,000/- to the claimant, with interest thereon at the rate of 6% per annum from the date of presentation of the claim application.
3. Since there was no representation on behalf of the appellant when the matter was called on repeat occasion, considering the fact that the appeal itself is of the year 2006, this Court thought it fit for disposing it of taking the assistance of Shri Raj Awasthi, Advocate, present in the Court.
4. Shri Raj Awasthi, learned counsel assisting on behalf of the appellant, submits that since it is a death case and under the amended provisions, under no circumstances, the compensation could had been

less than Rs.50,000/- that is the minimum amount under the no fault liability. He further submits that the claimant had deposed before the Tribunal that at the time of accident the deceased was working as an Accountant in a private firm and was drawing Rs.5000/- per month and even if the said amount of income stated by the claimant is on the higher side, under no circumstances, would the deceased be earning less than Rs.3000/- a month. He thus prayed for the amount of compensation awarded be calculated accordingly and the amount awarded under the conventional heads be also suitably enhanced.

5. There is no representation on behalf of the respondents though served and represented.

6. Having considered the contentions put forth by Shri Raj Awasthi and on perusal of the record, undisputedly, the date of accident is 20.8.2004. The deceased at the time of accident was about 70 years of age. There is no rebuttal to the evidence of the claimant in respect of the deceased working as an Accountant in a private firm. There is no proof of the monthly income of the deceased.

7. In the absence of any sufficient proof, this Court is of the opinion that considering the period of accident, the minimum income that a person would have earned at the relevant point of time would have been at least Rs.3000/-. It is thus ordered that for the purpose of quantifying the compensation, the monthly income to be assessed of the deceased should be Rs.3000/- that would make the yearly income of Rs.36,000/-.

8. Accordingly, if 1/3rd of Rs.36,000/- is deducted towards the personal expenses, the amount left would be Rs.24,000/- which if multiplied by applying the multiplier of 5, the amount would become Rs.1,20,000/-. It is thus ordered that the claimant shall be entitled for loss of dependency of Rs.1,20,000/- instead of Rs.15,000/- as assessed by the Tribunal.

9. Likewise, for the conventional heads also this Court taking into consideration the age of the claimant and the period of accident, awards a lump sum compensation of Rs.30,000/- instead of Rs.7000/- as awarded by the Tribunal, making the total compensation payable to the claimant of Rs.1,50,000/-, instead of Rs.22,000/- as awarded by the Tribunal.

10. In the result, the appeal is allowed and the impugned award stands modified to the extent that the appellant-claimant shall be entitled to get a total compensation of Rs.1,50,000/- with interest thereon at the same rate as has been awarded by the Tribunal. Rest of the award remains intact.

11. Registry of this Court is directed to forward a copy of this order to the Secretary, District Legal Services Authority of the concerned District from where the appellant-claimant hails, with a direction for ensuring that the copy of this judgment is served upon the appellant at the earliest.

12. This Court renders a word of appreciation to Shri Raj Awasthi, Advocate, for rendering his valuable assistance to this Court.

Sd/-
(P. Sam Koshy)
Judge