NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 73 of 2006

1. Smt. Mankunwar Bai, Aged about 40 years, Wd/o. Jeetram Patel,
2. Smt. Sarojni, Aged about 14 years, D/o. Jeetram Patel,
3. Ku. Amrika, Aged about 12 years, D/o. Jeetram Patel,
4. Ashwani Kumar, Aged about 10 years, S/o. Jeetram Patel,
5. Umashankar, Aged about 08 years, S/o. Jeetram Patel,

Appellants No. 2 to 5 are minors and represented through: their mother Smt. Mankunwar Bai (Appellant No.1)

All R/o. Village Bhandhuwapara, Post Kodiya, Police Station Seepat, Tahsil Seepat, District Bilaspur Chhattisgarh

---- Appellants

Versus

1. Smt. Satyanarayan Pandey, S/o. Vyas Narayan Pandey, R/o. Village Bandhuwapara, Post Kodia, Police Station and Tahsil Seepat, District Bilaspur, Chhattisgarh

2.a. Smt. Binda Devi, D/o. Late Ram Jivan Pandey, R/o. Village Khapari, Takhatpur, Tahsil Takhatpur, District Bilaspur, Chhattisgarh

2.b. Smt. Rajeshwari, D/o. Late Shri Ram Jivan Pandey, R/o. Kishore Nagar, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

2.c. Smt. Rama Bai, D/o. Late Shri Ram Jivan Pandey, R/o. Shankargarh, Sahdol.

2.d. Smt. Shyama Bai, D/o. Late Shri Ram Jivan Pandey, R/o. Nayapara, Golbazar, Raipur, Chhattisgarh

3. The United India Insurance Company Limited, Through: Divisional Manager, Divisional Office, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

–--Respondents

For Appellants	:	Mr. Pawan Kesharwani, Advocate
For Insurance Company	:	Mr. H.B. Agrawal, Sr. Advocate along with Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2017

1. Present is an appeal by the Claimants seeking for enhancement of the compensation awarded. The challenge is to the award dated

24.12.2005, passed in Claim Case No. 70/2004, by the 8th Additional Motor Accident Claims Tribunal (FTC), Bilaspur, Chhattisgarh.

2. Vide the impugned award, the Tribunal has awarded a compensation of Rs.2,29,500/- with interest @ 8% per annum from the date of application.

3. Counsel for the appellants submits that there were a bunch of appeals arising out of the same accident, which have been decided in favour of the Claimants by enhancing the compensation suitably. He submits that the income assessed in those cases by this Court was at Rs.36,000/-.

4. Counsel for the appellants referred to MAC No. 337/2006 decided on 02.11.2017 and MA No. 899/2006 decided on 12.09.2017. Likewise, another appeal arising out of the same accident i.e. MAC No. 72/2006 was also decided on 12.09.2017, wherein this Court has enhanced the compensation awarded.

5. Counsel for the appellants submits that in the instant case, the income assessed is on the lower side. The multiplier applied is not proper and also the fact that the future prospect has also not been considered while computing the compensation and prayed for the compensation amount to be suitably enhanced.

6. The counsel for the Insurance Company however submits that the compensation awarded is just and reasonable based on the evidence which have come on record and therefore the same does not warrant any interference and prayed for rejection of the appeal.

7. Having considered the contentions put forth by the counsel for either side and considering the judgments passed by this Court in all other similar appeals arising out of the same accident, this Court is convinced that the income which has been assessed by the Tribunal is unreasonably low as the minimum income of a daily wage worker also during that period would had been Rs.100/- a day, that makes it Rs.3,000/- a month and Rs.36,000/- yearly. It is therefore assessed that the income of the deceased for computing the compensation is assessed at Rs.36,000/- per annum instead of Rs.21,600/- as assessed by the Tribunal.

8. Similarly, in the light of the judgment of the Hon'ble Supreme Court in the case of ***"Sarla Verma & Ors vs Delhi Transport Corp. & Anr." (2009) 6 SCC 121)*** the Claimants shall also be entitled for income under the future prospects and the multiplier which could be applied in the instant case would be 14 considering the age of the deceased to be 43 years. Accepting Rs.36,000/- as his annual income, the Claimants would be entitled for 30% towards future prospect, which would come to Rs.10,800/-, which added to the yearly income would make it Rs.46,800/-. If 1/4th of the same is deducted towards the personal expenses, the net income would be Rs.35,100/-, which if multiplied applying the multiplier of 14, the amount would be Rs.4,91,400/-. It is ordered accordingly that the Claimants shall be entitled for the loss of dependency of Rs.4,91,400/-. In addition, the Claimants shall also be entitled for a lump sum compensation of Rs.1,00,000/- under the conventional head considering the fact that the total number of Claimants are 5. Thus, the total compensation payable becomes Rs.5,91,400/-. It is ordered accordingly that the

Claimants shall be entitled for the total compensation of Rs.5,91,400/- instead of Rs.2,29,500/- as awarded by the Tribunal.

9. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

10. Thus, the appeal stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved