

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 77 of 2013**

1. Smt. Kejai Bai W/o Chintu Yadav Aged About 45 Years, R/o Tokaro, Post- Manikkarchari, P.S. Abhanpur, Distt. Raipur (C.G.)
2. Chintu Yadav S/o Dihwar Yadav Aged About 48 Years R/o Tokaro, Post- Manikkarchari, P.S. Abhanpur, Distt. Raipur (C.G.)

---- Appellants**Versus**

1. Raman Kumar S/o Deshraj Aged About 27 Years, Occupation - Driver, Himanchal National Transport, Heerapur, Raipur, P.S. Heerapur, Tah. And Distt. Raipur C.G.
2. Bua Singh S/o Datt Singh, Occupation - Truck Owner & Transporter, R/o Himanchal National Road Lines, Heerapur, P.S. Amanaka, Tah. And Distt. Raipur C.G.
3. National Insurance Co. Ltd. Branch Office Nagpur, Maharashtra, Thru- Divisional Manager, Divisional Office- Mobin Mahal, G.E. Road, Raipur C.G.

---- Respondents

For Appellant : Shri Pawan Kesharwani, Advocate.
 For Respondent No.3 : Shri Quamrul Aziz, Advocate.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board**By Pritinker Diwaker, J****18/07/2017**

1. This appeal arises out of the award dated 28.08.2012 passed by 3rd Additional Motor Accident Claims Tribunal (for short the "Tribunal") Raipur in Claim Case No.110/2011 awarding a compensation of Rs.2,05,000/- in favour of the

appellants/claimants for the death of Dhanendra Yadav.

2. Facts of the case in brief are that on 09.06.2010 the deceased was returning from Raipur on his friend's motorcycle bearing registration No.CG-04-CZ-4661. The motorcycle was being driven by his friend Lateu whereas the deceased was sitting as pillion rider. When they reached near Shanta Hotel, a truck bearing registration No.CG-04-E-4038 driven by respondent No.1 herein, in a rash and negligent manner, came from opposite side and hit him as a result of which he died on the spot. A claim petition was filed by the appellants/claimants who happen to be the legal heirs of the deceased claiming a compensation of Rs.22,50,000/- *inter alia* pleading that the deceased at the relevant time was aged about 20 years, he was working as mason and earning Rs.10,000/- per month.

3. Pleading of the claimants have, however, been denied by the respondent/insurance company.

4. After evaluating the evidence available on record, the Tribunal has awarded the compensation of Rs.2,05,000/- along with interest @ 6% per annum in favour of the appellants/claimants taking the notional income of the deceased as Rs.-18,000/- per annum and applying the multiplier of 10 and deducting 50% towards his personal expenses. Hence this appeal for enhancement.

5. Counsel for the appellants/claimants submits that the

Tribunal has erred in law in not awarding adequate compensation to the claimants. He also submits that the notional income has been considered by the Tribunal as Rs.36,000/- per annum whereas it ought to have been considered Rs.72,000/- per annum. The Tribunal has also not considered the loss of future prospect, which in the present case, considering the age of the deceased as 20 years, ought to have been calculated @ 50%. He also submits that considering the age of the deceased, the multiplier of 18 ought to have been applied by the Tribunal, whereas it has applied the multiplier of 10. It has been also submitted that the amount awarded under the conventional heads is also quite inadequate and deserves to be suitably enhanced.

6. On the other hand, counsel for the respondent/insurance company supports the award impugned.

7. Heard counsel for the parties and perused the documents on record.

8. In a motor accident claim case, what is important is that, the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation, nor a Bonanza.

9. Now we shall examine as to whether the compensation of Rs.2,05,000/- awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the

case.

10. True, the claimants/appellants pleaded that deceased used to earn Rs.10,000/- per month by working as labour (mason), no cogent and reliable evidence was led before the Tribunal to establish the income of the deceased to the extent of Rs.10,000/- per month. Therefore, we do not find any fault in the approach of the Tribunal in discarding the appellants' evidence about the income of the deceased. Nevertheless, the income of the deceased assessed by the Tribunal at Rs.3,000/- per month and Rs.36,000/- per annum in the year 2010 is certainly on the lower side and requires reconsideration.

11. Considering that deceased Dhanendra Yadav, on the date of accident, was aged about 20 years, we are of the opinion that he could have easily earned Rs.200/- per day in the year 2010 by working as Mason. We, therefore, propose to recompute the compensation taking the income of the deceased at Rs.6,000/- per month and Rs.72,000/- per annum. Likewise, looking to the age of the deceased at the time of accident, loss of future income can be assessed to be 50% of the total income which comes to Rs.1,08,000/- per annum (Rs.72,000/- + Rs.36,000/-). There being only two claimants, the deduction of 50% towards personal expenses of the deceased from his annual income would be just and proper. Accordingly, by deducting 50% from the annual income of the

deceased, the claimants' dependency is assessed at Rs.54,000/- per annum.

12. Looking to the age of the deceased and two claimants/appellants i.e. 20, 45 and 48 respectively, at the time of accident, we are of the opinion that the Tribunal has not rightly applied the multiplier in this case. In fact, for the age group of 20 years, multiplier of 18 has to be applied and not 10 as per the Schedule. Therefore, the multiplier is enhanced from 10 to 18 and compensation is assessed to Rs.54,000/- x 18 = Rs.9,72,000/-. That apart, the amount awarded under the conventional heads also appears to be on lower side. Thus, keeping in view all these things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimants/appellants are entitled for compensation in the following manner:-

Head	Amount awarded	Amount enhanced
Loss of Estate	Nil	1,00,000/-
Love and affection	10,000/-	50,000/-
Mental agony	10,000/-	25,000/-
Funeral	5,000/-	25,000/-
	Total	2,00,000/-

13. Thus, the total compensation including the amount awarded on conventional heads comes to Rs.11,72,000/- (9,72,000/- + 2,00,000/-) for which the claimants are entitled to receive as compensation for the death of deceased Dhanendra Yadav. Since the Tribunal has already awarded

Rs.2,05,000/-, after deducting the same the claimants/appellants are entitled for enhanced amount of Rs.9,67,000/-. This additional amount of compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization. The amount received by the claimants, if any, shall be adjusted in the enhanced sum.

14. Appeal is thus allowed in part with the modification in the award impugned as indicated above.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(Ram Prasanna Sharma)
Judge