

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No.335 of 2010**

1. Ravindra Kumar Kurre S/o Late Punaram Kurre, aged about 25 years.
2. Kumari Damini Kurre D/o Late Punaram Kurre, aged about 8 years, Minor through her brother as amicus curiae Appellant No.1 Ravindra Kumar Kurre  
Both are R/o Village Akoli, Post Khudmuda, P.S.Berla, Tahsil Bemetara, District Durg (C.G).

**---Appellants**

**Versus**

1. Rajesh Das Manikpuri S/o Vishaldas Manikpuri, aged 22 years, Occupation Driver, R/o Village Muraithi, P.S.Dharsinwa, Tahsil and District Raipur (C.G)
2. Mayaram Yadu S/o Vishveshwar Yadu, aged 38 years, R/o Village Muraithi, Post Siltara, P.S.Dharsinwa, Tahsil and District Raipur (C.G)
3. The Oriental Insurance Co.Ltd, through Divisional Manager, Divisional Office, No.1 Kachhahari Chowk, Jail Road, Raipur (C.G).

**---Respondents**

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|-------------------------------------------|---|---------------------------------|
| For the Claimants                         | : | Shri S.S.Rajput (Amicus Curie)  |
| For respondent No.3/<br>Insurance Company | : | Ms.Chitra Shrivastava, Advocate |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**22/09/2017**

1. None appear for the claimants. The appeal is of the year 2010. Considering the fact that is an appeal of the year 2010, this court thought it proper for taking the assistance of Shri Sachin Singh Rajput, Advocate present in the court to assist the court in the disposal of the appeal.
2. Present is an appeal under Section 173 of the Motor Vehicle Act assailing the award dated 27/03/2009 passed by 9th Additional Motor Accident Claims Tribunal (F.T.C), Raipur in Claim Case No.108/2008.

3. Vide the said impugned award, the Tribunal in a Claim Case under Section 166 has awarded compensation of Rs.1,58,000/- along with interest @ 6% per annum. It is this award which is under challenge by the claimant seeking enhancement.
4. While passing the award, the Tribunal had exonerated the Insurance Company which had insured the offending vehicle on the ground that, there was a clear breach of policy condition. Owner in the instant case has not preferred any appeal and as such the liability part of payment of compensation has attained its finality. The issue left to be decided is whether the compensation awarded by the Tribunal is just and reasonable or not? The Tribunal in the instant case has assessed the monthly income of the deceased at Rs.3,000/- and the yearly income at Rs.36,000/- while quantifying the compensation. The record show that there was a specific averment made by the claimants in respect of nature of employment and the wages that the deceased was earning. The deceased was the mother of the claimants and they had specifically pleaded of deceased earning Rs.128/- per day, but the Tribunal has only accepted Rs.100/- as the per day income of the deceased for quantifying the compensation. No specific reasons assigned as to why the statement of the claimants were not to be believe so far as income is concerned.
5. Thus, this court holds that for quantifying the compensation, the income of the deceased has to be assessed at Rs.128/- per day instead of Rs.100/- which makes the monthly income of the deceased at Rs.3,840/- and the yearly income at Rs.46,080/-. For quantification purpose, we round off the figure i.e. Rs.46,000/-. Considering the fact that the date of the accident is May-2009 and applying the principles of law laid down by the Hon'ble Supreme Court in the case of **Santosh**

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30% of the income has to be added towards future prospects which would bring the figure to Rs.13,800/-. If this figure is added to the yearly income, the total figure reaches to Rs.59,800/- of which if 1/3rd is deducted towards personal expenses, the amount would become Rs.39,867/- which if multiplied by applying multiplier of 13, the amount would become Rs.5,18,271/-. It is ordered accordingly.

6. This court further finds that the Tribunal had granted only Rs.2,000/- towards funeral expenses and that there was no other compensation paid under the conventional head. Considering the factual aspects of the case and also the period of the accident, this court is of the opinion that ends of justice would meet if a lump-sum amount of Rs.81,729/- is granted towards conventional head.

7. Thus, the total amount of compensation payable to the claimant would become Rs.6,00,000/- instead of Rs.1,58,000/- as quantified by the Tribunal. The said amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. Needless to mention that, the finding of the Tribunal in taking half of the compensation assessed towards partial dependency was not proper, legal and justified and same thus stand set-aside. The claimants shall be entitled for the entire amount of compensation.

9. With the aforesaid observation, the appeal stands allowed and disposed off. The liability of payment of compensation shall remain upon the driver and the owner of the vehicle as has been assessed by the Tribunal.

**Sd/-  
(P. Sam Koshy)  
Judge**