

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No.797 of 2010

1. Bhawna Ram Bhagat (Since died, hence stands deleted vide order dated 03/10/2017 itself).
2. Smt.Lalmet Bai Bhagat W/o Bhawna Ram Bhagat, Caste Uraon, aged about 50 years.
Both are R/o Bojiya, P.S.Chhal, Tahsil Dharamjaigarh, District Raigarh (C.G).

---Appellants

Versus

1. Raju Kori S/o Thakur Das Kori, aged about 30 years, Occupation Driver, R/o Chhirona, P.S.Chirgaon, District Jhansi (U.P) at present R/o Modi Road Carrier, Raipur Road, Parsada, Police Station Chakarbhata, District Bilaspur (C.G.)
2. Mahendra Modi S/o Ramswoop Modi, aged about 44 years owner of the vehicle, R/o Jhanshi, Gajiyabad Roadways, Bhanpuri, Raipur at present 25 Bangla Colony, P.S.Civil Line, Bilaspur, District Bilaspur (C.G)
3. Branch Manager, New India Insurance Company Ltd., Branch Office Sattigudi Chowk, L.I.C.Building, Raigarh, District Raigarh (C.G)

---Respondents

For appellants	:	Shri Manoj Kumar Jaiswal, Advocate
For respondent No.3/ Insurance Company	:	Shri Shree Kumar Agrawal along with Shri Anand Gupta, Advocates

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/10/2017

1. At the outset, learned counsel for the appellants submits that, the appellant No.1-Bhawna Ram Bhagat pending the appeal before this court has since expired and therefore he prays for permission to delete the name of appellant No.1 from the array of parties.
2. Learned counsel for the respondent does not oppose the same.
3. Accordingly, the appellant No.1 stands deleted from the array of parties. Let necessary amendment in this regard be carried out during the course of the day itself.
4. With the consent of the parties, the matter was heard finally.

5. Present is an appeal under Section 173 of the Motor Vehicle Act assailing the award dated 30/04/2010 passed by the 4th Additional Motor Accident Claims Tribunal, F.T.C., Raigarh in Claim Case No.36/2009.
6. Vide the said impugned award, the Tribunal under Section 166 has awarded compensation of Rs.1,95,000/- along with interest @ 6% per annum from the date of application. The challenge is to the quantum part awarded.
7. According the counsel for the appellant, the Tribunal has not taken into consideration proper income while quantifying the compensation. Likewise, the multiplier applied also is on the lower side. Further, the compensation under the conventional head is also on the lower side and prayed for suitable enhancement of the award.
8. The counsel for the Insurance Company however opposing the appeal submits that, considering the fact that the deceased was a bachelor and was aged around 28 years and the claimant being their father, the amount of compensation awarded being just and reasonable and it does not warrant any interference and the appeal deserves to be dismissed.
9. Having considered the contentions put forth on either side and on perusal of record what is relevant to be noted is the date of accident which in the instant case is 26/01/2009. The income which has been assessed by the Tribunal for quantifying the compensation is the notional income of Rs.30,000/-.
10. The counsel for the claimants submits that, in the year 2009, undisputedly the income of the deceased was much more than Rs.30,000/- which has been assessed by the Tribunal. He further submits that, in the instant case he was working as a guard in one of the towers

installed by the Airtel Company and that he was drawing salary of around Rs.5,600/- per month.

11. Though there is no substantive evidence produced by the claimants in this regard, but undoubtedly at the relevant point of time the income of the deceased would not have been less than Rs.150/- per day which makes Rs.4,500/- per month.

12. This court has not hesitation in reaching to the conclusion that, for the purpose of quantifying the compensation the income of the deceased should be taken at Rs.4,500/- per month i.e. Rs.54,000/- yearly.

13. Further, considering the fact that the accident is of the year 2009, applying principles laid down by the Hon'ble Supreme Court in the case of ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 {6} SCC 121]***, the claimants would also be entitled for income under future prospects while quantifying the compensation.

14. If Rs.54,000/- is assessed as the yearly income, Rs.27,000/- of which added towards future prospects would make the yearly income at Rs.81,000/-. Since the deceased was a bachelor, 50% of which could have to be deducted towards personal expenses which would bring the amount to Rs.40,500/-. If the said amount is multiplied by applying multiplier of 17, the amount would be Rs.6,88,500/-. It is ordered accordingly that the claimants shall be entitled for compensation of Rs.6,88,500/- instead of Rs.1,60,000/-.

15. Now considering the aspect of compensation under the conventional head, considering the fact that the death occurred in the year 2009, this court is of the opinion that ends of justice would meet if the claimants are granted a lump sum compensation of Rs.1,00,000/- instead of Rs.35,000/- as awarded by the Tribunal under the conventional head.

16. Thus, the claimants shall be entitled for total compensation of Rs.7,88,500/- instead of Rs.1,95,000/- as awarded by the Tribunal. The said amount shall also carry interest at the same rate as has been awarded by the Tribunal.

17. The appeal stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Sumit