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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 245 of 2015

(Arising out of award dated 23.01.2015 in Claim Case No. 21/2014 of the learned 2nd Additional Motor Accident Claims Tribunal, Durg)

1. Smt. Maleshwari W/o Late Johan Lal Kurre Aged About 36 Years R/o Village- Albaras, P.S.- Anda, Tahsil - Durg, District- Durg, Chhattisgarh

2. Ku. Varsh Kurre D/o Late Johan Lal Kurre Aged About 14 Years Minors Through Natural Guardian Mother Smt. Mleshwari, R/o Village- Albaras, P.S.- Anda, Tahsil- Durg, District-Durg, Chhattisgarh

3. Harsh Kurre S/o Late Johan Lal Kurre Aged About 11 Years Minors Through Natural Guardian Mother Smt. Mleshwari, R/o Village- Albaras, P.S.- Anda, Tahsil- Durg, District-Durg, Chhattisgarh

4. Barteen Bai W/o Premlal Kurre Aged About 60 Years R/o Village- Albaras, P.S. - Anda, Tahsil - Durg, District- Durg, Chhattisgarh

5. Hulsi Bai W/o Late Johan Lal Kurre Aged About 35 Years R/o Village- Albaras, P.S. - Anda, Tahsil - Durg, District- Durg, Chhattisgarh

6. Vivek Kumar Kurre S/o Late Johan Lal Kurre Aged About 6 Years Minor Through Natural Guardian Mother Smt. Hulsi Bai, Minors Through Natural Guardian Mother Smt. Mleshwari, R/o Village- Albaras, P.S.- Anda, Tahsil- Durg, District-Durg, Chhattisgarh

---- Appellants

Versus

1. Kejuram Deshmukh & Ors S/o Jhumuk Lal Deshmukh R/o Siyanar, Tahsil & P.S.- Jagdalpur, District- Jagdalpur, (C.G.) ...Driver of Truck

2. Vijay Soni S/o Styanarayan Soni R/o Ward No. 6, Radhika Tent House, Main Market, Kurandul, Post- Kirandul, Tahsil & District- Dantewada, (C.G.) ….Owner of Truck

3. Shriram General Insurance Co. Ltd. Through Claim Manager, Address- E/h, Apartment Rikko Industrial Area, Sifapur, Jaipur (Rajasthan) Present Address: Commercial Building, Devendra Nagar, Raipur- (C.G.) ….. Insurer

4. Chandrakant Thakur S/o Vishnu Kant Thakur R/o Brahman Para, Ward, No. 33 Rajnandgaon, Tahsil & District- Rajnandgaon, (C.G.).... Owner of Maruti Van

5. The New India Insurance Co. Ltd. Through: Branch Manager, Station Road, Parakh Bhawan, Durg, Tahsil & District- Durg, Chhattisgarh ...Insurer of Maruti Van

---- Respondents

For Petitioners : Mr. P.R. Patankar, Advocate.
For Respondent No. 5 : Mr. H.B. Agrawal, Senior Advocate with Smt. Prabha Mishra, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/07/2017

(1) This is claimants' appeal seeking enhancement of compensation awarded by 2nd Additional Motor Accident Claims Tribunal, Durg (for short 'the Tribunal) passed in Claim Case No. 21/2014 vide its award dated 23.01.2015.

(2) As against the compensation of Rs.27,00,800/- claimed by unfortunate widow, children and mother of deceased –Johan Lal Kurree, aged about 37 years, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for his death in the motor accident on 14.05.2012, the Tribunal awarded a total sum of Rs. 8,93,000/- to the claimants along with interest @ 6 % per annum from the date of filing of claim petition till its actual payment.

(3) The Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, held: the accident had occurred due to collusion between Maruti Van bearing registration No. CG-08-K-1018, in which the deceased was traveling as passenger and Truck being registration No.CG-018-H-0487 being driven by respondent No. 1-Kejuram Deshmukh; Johan Lal Kurree succumbed to the injuries sustained in the said accident; and assessed and awarded aforesaid sum to the claimants as compensation.

(4) Shri Shivendu Pandya, learned counsel appearing for the

appellant/claimant would submit that the Tribunal has fallen in error in assessing the income of the deceased as Rs.3,000/- per month and Rs.36,000/- per annum and thereby in awarding low amount of compensation of Rs.8,93,000/- which deserves to be suitably enhanced.

(5) On the other hand, Shri Agrawal, learned Senior counsel appearing for the respondent No. 5/Insurance Company supported the award impugned.

(6) I have heard the learned counsel appearing for the parties and perused award impugned.

(7) The deceased was aged about 37 years old and was working BAMS doctor. The Tribunal after assessing the income of deceased as Rs. 3,000 per month/- i.e. Rs.36,000 per annum, applied multiplier of 15 and awarded a total compensation of Rs. 8,93,000/- along with interest @ 6% per annum from the date of filing of claim petition till its actual payment to the claimants for the death of deceased Johanlal Kurree.

(8) The Tribunal, after considering the income of the deceased as Rs.3,000/-per month i.e. Rs.36,000/- per annum, has awarded Rs.8,93,000/- as compensation to the claimants. In my opinion, that the Tribunal was not correct in assessing the amount of compensation by taking into consideration the income of the deceased as Rs.3,000/- per month only. Therefore, I propose to re-compute the amount of compensation by taking into consideration the income of the deceased as Rs.6,000/- per month i.e. Rs.72,000/- per annum.

(9) After deducting 1/4th of it towards personal expenses of deceased as the Supreme Court in case of Sarla Verma (Smt.) & others V. Delhi

Transport Corporation and another[1],has held where the deceased is married, the deduction towards personal and living expenses of the deceased should be 1/4th if dependents family members are 4 to 6, the claimants' annual dependency is assessed as Rs. 54,000/-. By multiplying the claimant's annual dependency of Rs.54,000/- with the multiplier of 15 as applied by the Tribunal, the amount of compensation on account of loss of would be Rs. 8,10,000/-. The claimants are further entitled for Rs.10,000 as a cost and the amount awarded by the Tribunal on the other heads being proper it will remain intact and thus, the claimants would become entitle for Rs. 10,65,000/- as compensation in place of Rs. 8,93,000/- as awarded by the Tribunal.

(10) In view of forego dependency ing, the appeal is allowed in part. The compensation of Rs. 8,93,000/- awarded by the Tribunal is enhanced to Rs. 10,65,000/- i.e. Rs. 1,72,000/- over and above the amount awarded by the Tribunal.

(11) The enhanced amount of compensation of Rs. 1,72,000/- shall carry interest @ 6 percent per annum from the date of application till its actual payment. The award is modified to the above extent. Rest of the conditions mentioned in the award shall remain intact.

(12) The respondent No. 5/The New India Assurance Company Limited is granted three months' time to deposit enhanced amount of compensation of Rs.1,72,000/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

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1 2009 (6) SCC 121