NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1550 of 2017

Branch Manager, Magma H.D.I. General Insurance Company Ltd. Office No. 501, 509-512, Fifth Floor D. V. City Corporate Park Block No. 9, Rajbandha Maidan Raipur, District Raipur, Chhattisgarh (At Present D. B. Complex, 5th Floor, G. E. Road, Raipur, Chhattisgarh. (Insurer)

---- Appellant

Versus

1. Shobhnath S/o Late Buddhuram Prajapati, Aged About 55 Years
2. Lalita, D/o Shobhnath Prajapati, Aged About 39 Years
3. Dhaneshwari, D/o Shobhnath Prajapati, Aged About 35 Years
4. Laxmi, D/o Shobhnath Prajapati, Aged About 30 Years W/o Mahesh Ram,

   All are R/o Village Hanumangarh, Police Station And Tehsil Udaipur, Post Office Jamdih, District Sarguja, Chhattisgarh. (Claimants)
5. Bhuneshwar Singh Alias Bhot, S/o Shri Bhajan Ram Singh, Aged About 40 Years R/o Village Kalcha, Police Station Udaipur, District Sarguja, Chhattisgarh. (Driver)
6. Somarsai Singh, S/o Majhiram, Aged About 65 Years R/o Village Kalcha, Police Station Udaipur, District Sarguja, Chhattisgarh. (Owner)

----Respondents

For Appellant	:	Mr. Rohitashva Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/11/2017

1. Present is an appeal under Section 173 of the Motor Vehicles Act by the Insurance Company. Challenge is to the award dated 25.08.2017, passed by the Motor Accident Claims Tribunal, Ambikapur, District Sarguja, Chhattisgarh, in Motor Accident Claim Case 53/2017.

2. Vide the impugned award, the Tribunal, in a death case of a 16 years young boy has awarded a compensation of Rs.6,11,600/- with interest @ 6% per annum from the date of application.

3. While passing the impugned award the liability of payment of compensation has been fastened upon the present appellant-Insurance Company. The contention of the counsel for the appellant is that the challenge is to the quantum part as the Claimant in the instant case was father and the deceased in the instant case was a 16 years old boy and since he was a 16 years old boy, it has to be presumed that he was dependent upon his father and not vice versa. Therefore, the Claimants would not have been entitled for the compensation assessed at by the Tribunal. He further submits that the notional income and the future prospect added in the instant case also is on the higher side and that future prospects should not had been taken into account while quantifying the compensation.

4. Having considered the contentions put forth on either side and on perusal of record what is reflected in the instant case is that the Tribunal has taken the notional income of the deceased at Rs.4,000/- considering the date of accident to be 04.12.2016, this Court does not under any circumstances the income of Rs.4,000/- assessed by the Tribunal to be excessive or exorbitant, the salary of even an unskilled labour was much more than that has been assessed by the Tribunal during that period.

5. Likewise, the future prospects taken into consideration is also only 30%, which again does not seem to be in contravention to the recent Larger Bench decision of the Hon'ble Supreme Court in the case of **"National Insurance Company Limited vs. Pranay Setthy and Others"** decided on 31.10.2017, in Civil Appeal No. 25590/2014 and thus on the both these counts, this Court does not find the quantification of compensation to be on the higher side.

6. The appeal of the Insurance Company thus being devoid of merit, the same is deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved