

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 520 OF 2014

1. Smt. Tikeshwari Bai, Wd/o Late Punau Ram Bhuarya, aged 25 years
 2. Pemanlal, S/o Late Punau Ram Bhuarya, aged about 4 years
 3. Sumati, D/o Late Punau Ram Bhuarya, aged about 3 years
 4. Smt. Jahura Bai, W/o Late Jethuram Bhuarya, aged about 45 years
- Appellant No. 2 and 3 through their legal guardian Smt. Tikeshwari Bai, Wd/o Punau Ram Bhuarya, aged about 25 years. All are R/o Village Netamtola, Post Arajkund, Police Station & Tahsil Ambagarh Chowki, District Rajnandgaon (C.G.)

... Appellants

versus

1. Ayyar Venkat Swami, S/o Shri A. Vekanna, aged about 42 years, R/o House No.2-21, Singitham Mandal & District Nijamabad (Andhra Pradesh)
2. Laxmi Narsimha Bore Wells, through: S. Ravinder Reddy, R/o House No. 11-1-1828, Maruti Nagar, Nijamabad (Andhra Pradesh)
3. The New India Insurance Company Limited, Divisional Office, Chouhan State First Tanal, Supela, Bhilai, District Durg (C.G.)

... Respondents

For Appellants	:	Mr. A.C. Sahu, Advocate.
For Respondent No.3	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/12/2017

1. The present is a claimants' appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the compensation awarded by the Second Additional Motor Accident Claims Tribunal, Rajnandgaon, vide its award dated 30.10.2013, passed in Motor Accident Claim Case No. 139/2012.
2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.4,18,000/- to appellants-claimants with interest thereon at the rate of 6% per annum from the date of presentation of the claim application. While passing the award, the learned Tribunal has fastened the liability for payment of compensation upon respondent no.3-insurance company indemnifying respondents no. 1 and 2 i.e. the driver and the owner of the offending vehicle i.e. a Bore Well Lorry, bearing registration no. MP25-AB-0909.

3. Learned counsel for the appellants-claimants submits that the income assessed by the Tribunal is unreasonably low and the Tribunal also has not granted compensation under the future prospects and that the Tribunal also should have taken into consideration the deduction 1/4th instead of 1/3rd considering the total number of claimants and thus prayed for the award to be suitably modified.

4. Learned counsel for respondent no.3-insurance company however opposing the appeal submits that the Tribunal has passed the award taking into consideration the entire evidence which have been produced before it and that there is no error on the part of the Tribunal while deciding the claim application and thus the appeal deserves to be rejected.

5. Having considered the contentions put forth on either side and on perusal of records, taking into consideration the date of accident i.e. 24.1.2012, this Court has no hesitation in holding that at the relevant point of time, even unskilled labourers were earning more than Rs.150/- a day i.e. more than Rs.4500/- a month. Under the said circumstances, this Court assesses the monthly income of the deceased at Rs.4500/- taking the daily wage at Rs.150/- a day and proceeds to calculate the compensation accordingly.

6. Further, taking into consideration a recent Larger Bench's decision of the Hon'ble Supreme Court in the case of **National Insurance Company Limited v. Pranay Sethi & Others**¹, the claimants would also be entitled for 40% of the income towards future prospects.

7. Thus, adding 40% on the monthly income assessed i.e. Rs.4500/-, the net monthly income of the deceased would come to Rs.6300/- and yearly at Rs.75,600/- of which if 1/4th is deducted towards personal and living expenses, the remaining amount would come to Rs.56,700/- to which if multiplier of 17 is applied, the total figure towards the loss of dependency

¹ SLP (Civil) No. 25590 of 2014, decided on 31.10.2017

would come to Rs.9,63,900/- which the claimants shall be entitled to get, instead of Rs.4,08,000/- as assessed by the learned Tribunal. In addition, this Court, again taking into consideration the case of **Pranay Sethi** (supra), awards an amount of Rs.70,000/- to the claimants towards the conventional heads, instead of Rs.10,000/- as awarded by the learned Tribunal. Thus, making the total compensation payable to the claimants at Rs.10,33,900/-, instead of Rs.4,18,000/- which has been awarded by the learned Tribunal.

8. As a consequence, the appeal is allowed and the impugned award stands modified to the extent that the appellants-claimants shall be entitled to get a total compensation of **Rs.10,33,900/-**. The said enhanced amount shall also carry interest at the same rate as has been fixed by the learned Tribunal. Rest of the award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge