

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 869 of 2005

Suresh Prasad Keshri, S/o. Shri Jagdish Prasad Sahu, aged about 38 years, R/o. Kanhavati, PS Kanhavati, DIS Chatra, erstwhile District Hajaribag (Jharkhand)

---- Appellant

Versus

1. Sitaram, S/o. Teejram, aged about 45 years,
2. Smt. Birojmati W/o. Sitaram, Aged about 40 years,
3. Heer Bai D/o. Sitaram Sahu, Aged about 15 years,
4. Uma Bai, S/o. Sitaram Sahu, aged about 13 years,
5. Shiv Shanker, S/o. Sitaram Shu, aged about 11 years,
All R/o. Village Jetha, PS Baradwar, District Janjgir Champa (CG)
(Respondents No.3 to 5 are minors hence through their natural guardian Father Shri Sitaram Sahu)
6. Vajid S/o. Mohouddin, Aged about 47 years, R/o. Diwanpara, Chatra (Jharkhand)

---- Respondents

MA No. 1233 of 2005

1. Seetaram, S/o. Shri Teejram, aged about 45 years,
2. Birijmati W/o. Seetaram Sahu, aged about 40 years,
3. Heer Bai, D/o. Seetaram Sahu, aged about 15 years (minor)
4. Uma Bai, aged about 13 years, D/o. Shri Seetaram Sahu, (minor)
5. Shivshankar, aged about 11 years, (minor), S/o. Shri Seetaram Sahu,

Appellants No. 3 to 5 are minors through their natural guardian father namely Seetaram Sahu, aged about 45 years, S/o. Teejram Sahu,

All are R/o. Jetha, PS Baradwar, Distt. Janjgir-Champa (CG)

---Appellants

Versus

1. Suresh Prasad Keshari, aged about 38 years, S/o. Jagdish Prasad, R/o. Kanhachati, P.S. Kanhachati, Distt. Hajaribag (Jharkhand).
2. Wajeed Ali, aged about 47 years, S/o. Mauhiduddin, Caste Musalman, R/o. Diwanpara, Chatra, P.S. Chatra, Distt. Chatra (Jkharkhand)

-----Respondents

For Claimants	:	Mr. Vivek Bhakta, Advocate under the instructions of Mr. A.N. Bhakta, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/08/2017

1. These are the two appeals assailing the award dated 21.04.2005, passed by the Additional Motor Accident Claims Tribunal, Sakti, District Bilaspur (C.G.) in Motor Accident Claim Case No. 37/2004. Vide the said impugned award, the Tribunal in a proceeding under Section 166 has awarded a compensation of Rs.1,70,000/- in favour of the claimants. Since the vehicle involved in the accident was not insured, the liability of payment of compensation was fastened upon the owner of the said vehicle i.e. the appellant in M.A. No. 869/2005. The present two appeals have been preferred appellants i.e. one by the owner i.e. M.A. No. 869/2005 and second by the claimant i.e. M.A. No. 1233/2005. So far as the appeal preferred by the owner is concerned, even on the last date of hearing, there is no representation made on behalf of the appellant and today also inspite of the matter being called twice, there is no representation on behalf of the owner/ appellant. As a result of this Court is left with no other option, but to dismiss the appeal of the owner i.e. M.A. No. 869/2005 for want of prosecution. So far as the appeal by the claimants are concerned, the counsel for the appellant restricts his claim for enhancement on three counts, firstly the multiplier applied being wrong, secondly the income under future prospect has not been considered and thirdly the compensation under the other heads has insufficiently low.
2. So far as the multiplier and taking of future prospect for the purpose of quantifying the compensation is concerned, the law by now is very settled by catena of decisions citing by the Supreme Court in the case of ***Sarla Verma & Ors vs Delhi Transport Corp. & Anr [2009 (6) SCC 121]*** and also in the case of ***Rajesh and others v. Rajbir Singh and others [2013 (9) SCC 54]***. Thus it is ordered that claimants shall be entitled for taking into income under the future prospect also for the purpose of quantifying the compensation. Likewise the multiplier also in the said case would be by taking into account the age of the deceased and not the age of the claimant and in the instant case considering the age of deceased, the multiplier

ought to have been 18 instead of 14 that has been applied by the Tribunal.

3. Applying the aforesaid ratio considering the income of the deceased to be Rs.3000/- a month, which has been assessed by the Tribunal, if we add 50% of it towards future prospect, the amount would become Rs.4500/- a month and the early income would be Rs.54,000/- of which 50% if deducted towards personal expenses, the amount would reach to Rs.27,000/-, which if multiplied by applying the multiplier of 18, the figure would be Rs.4,86,000/-. Thus it is ordered that the claimants shall be entitled for compensation of loss of dependency of Rs.4,86,000/- instead of Rs.1,68,000/- as assessed by the Tribunal.
4. So far as the income under other head are concerned, true it is that the amount of compensation awarded of Rs.2,000/- towards funeral expense, no compensation has been awarded under loss of love & affection and the same is not proper and considering the total facts and circumstances and to round off the compensation awarded by the Tribunal, this Court is of the opinion that the claimants shall be entitled for a compensation of Rs.14,000/- under other heads, so as to make the total compensation payable at Rs.5,00,000/-, it is ordered accordingly.
5. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal. Rest of the conditions as awarded by the Tribunal shall remain intact. The appeal of the Claimant i.e. M.A. No. 1233/2005 stands allowed accordingly. As a result, the appeal of the owner stands dismissed in default and the appeal of the claimant is allowed.

Sd/-
(P. Sam Koshy)
Judge