

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 811 of 2014

1. Smt. Lalmait Bai W/o Late Suresh Kumar Nagdev Aged About 30 Years
2. Minor Ku. Aruna D/o Late Suresh Kumar Nagdev Aged About 10 Years
3. Minor Ku. Nisha D/o Late Suresh Kumar Nagdev Aged About 6 Years
4. Minor Gopi Kumar D/o Late Suresh Kumar Nagdev Aged About 3 Years

Appellants No, 2, 3 & 4 are minor through their mother Smt. Lalmait Bai, All R/o Village- Balachapar, PS Jashpur, Tah. And Distt. Jashpur, Civil & Revenue Distt. Jashpur C.G.

**---- Appellants
claimant**

Versus

1. Vinod Kumar Jain S/o Hanuman Prasad Jain Aged About 48 Years R/o College Road, Jashpur, P.S. Jashpur, Distt. Jashpur C.G.
2. Suresh Kumar Singh S/o Aanad Prasad Singh Aged About 30 Years occupation driver, R/o Joda Tarai, Tah. Kunkuri, P.S. Kunkuri, Distt. Jashpur C.G.
3. The National Insu.Co.Ltd. Local Branch Office, Gumla, Distt. Gumla (Jharkhand), P.S. Gumla.

---- Respondent

For Appellants	:	Shri Rishi Mahobia, Advocate.
For Respondent No. 1 & 2	:	None.
For Respondent No.3	:	Shri Goutam Khetrapal, Advocate.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board By Justice Pritinker Diwaker

25/07/2017

This appeal arises out of the award dated 19.6.2014 passed by Additional Motor Accident Claims Tribunal (FTC), Jashpur in Claim Case No.09/2013 whereby in a death case awarding compensation of Rs.3.88 lakhs in favour of the claimants.

02. Brief facts of the case are that on 7.12.2011 vehicle of respondent No.1 Vinod Kumar Jain had broken down and when the same was being towed by the deceased, at that time he was dashed by the offending vehicle Hywa truck resulting in his death. At the time of death, the deceased was 45 years of age and by profession, was a private driver.

03. A claim case was filed by the claimants, four in number, claiming compensation of Rs.20.20 lakhs under various head, inter alia, pleading that on account of rash and negligent driving of the offending vehicle, the deceased lost his life and therefore, they are entitled for compensation as claimed.

04. Respondent/insurance company contested the claim on general grounds and denied its liability to pay any compensation.

05. The Tribunal by the impugned award awarded total compensation of Rs.3.88 lakhs in favour of the claimants.

06. Counsel for the appellants submits that the Tribunal has erred in law in calculating the monthly income of the deceased and further,

under the conventional heads also adequate compensation has not been awarded.

07. On the other hand, counsel for the insurance company submits that the compensation awarded by the Tribunal being just and proper needs no enhancement.

08. Heard counsel for the respective parties and perused the material on record.

09. True it is that income of the deceased has not been proved by the claimants in this case. However, considering the fact that the incident is of the year 2011, notional income of the deceased @ Rs.6000/- per month can be taken. Thus, assessing the monthly income as Rs.6,000/- and considering the age of the deceased i.e. 45 years, after adding 30% (Rs.1,800/-) towards future prospects, the monthly income comes to Rs.7,800/-. As the deceased was survived by four members, after deducting 1/4th (Rs.1,950/-) towards his personal and living expenses, the monthly loss of dependency comes to Rs.5,850/- i.e. Rs.70,200/- per annum. In this case, multiplier of 14 would be applicable and as such, after applying this multiplier, the total loss of dependency is worked out at Rs.9,82,800/-.

As regards the other conventional heads i.e. loss of estate, loss of consortium, loss of love and affection, for attendant, special diet, funeral expenses etc., in the facts and circumstances of the case, we are of the opinion that a total sum of Rs.2 lakhs under the aforesaid conventional heads would be just and proper. It is awarded accordingly.

10. In the result, the claimants are held entitled for a total compensation of Rs.11,82,800/-. As the Tribunal has already awarded Rs.3.88 lakhs, the appellants/claimants are entitled to get additional compensation of Rs.7,94,800/-, which is rounded off to Rs.7.95 lakhs with interest @ 9% per annum thereon from the date of filing of claim petition till realization.

The appeal is accordingly disposed of with modification in the impugned award to the above extent.

Sd/

(Pritinker Diwaker)

Judge

Sd/

(R.P. Sharma)

Judge