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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 896 OF 2013

1. Seema Singh, W/o Late Sameer Pratap Singh, aged about 34 years, working as House Wife, R/o Manendragarh Road, behind Hotel Shailgiri, Ambikapur, Post- Ambikapur, District Surguja (C.G.)
2. Shakti Pratap Singh (Minor), S/o Late Sameer Pratap Singh, aged about 11 years, working as Student, through LR and guardian Smt. Seema Singh, aged about 34 years, working as House Wife, R/o Manendragarh Road, behind Hotel Shailgiri, Ambikapur, Post- Ambikapur, District Surguja (C.G.)
3. Smriti Singh (Minor), D/o Late Sameer Pratap Singh, aged about 9 years, working as Student, through LR and guardian Smt. Seema Singh, aged about 34 years, working as House Wife, R/o Manendragarh Road, behind Hotel Shailgiri, Ambikapur, Post- Ambikapur, District Surguja (C.G.)

… Appellants

Versus

1. Harsh Kumar Singhdeo, S/o Late Samar Bahadur Singh (owner and driver), through its LRs Smt. Shipra Singhdeo, W/o Late Harsh Kumar Singhdeo, aged about 45 years, R/o Deviganj Road, Hotel Dev, P.S. & Tehsil Ambikapur, District Surguja (C.G.)
2. Umendra Pratap Singh, S/o Late Ramnath Singh, aged about 62 years, R/o Manendragarh Road, behind Hotel Shailgiri, Ambikapur, Post- Ambikapur, District Surguja (C.G.)
3. Kusum Singh, W/o Umendra Pratap Singh, aged about 60 years, R/o Manendragarh Road, behind Hotel Shailgiri, Ambikapur, Post- Ambikapur, District Surguja (C.G.)
4. The United India Insurance Company Limited, Bilaspur, Mendhekar Complex, Rajendra Nagar Square, P.S. Civil Lines, Post and District Bilaspur (C.G.)

… Respondents

For Appellants	:	Mr. Manish Nigam, Advocate.
For Respondent No.1	:	Mr. Kishore Narayan, Advocate.
For Respondent No.4	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/07/2017

1. The present appeal has been filed by the claimants seeking for enhancement of the compensation awarded by the Third Additional Motor Accident Claims Tribunal, Ambikapur, on 28.6.2013, in Motor Accident Claim Case No. 146 of 2012.

2. Brief facts of the case are that the claimants herein had filed a claim application before the Third Additional Motor Accident Claims Tribunal,

Ambikapur, where the case was registered as Motor Accident Claim Case No. 146/2012. It was stated that the husband of appellant/claimant No.1 and the father of appellants/claimants No. 2 and 3 died in a road accident on 5.5.2011 when the Tata Safari vehicle, bearing Registration No. CG15-B/6834, met with an accident, resulting in death of Sameer Pratap Singh. The age of the deceased was 38 years on the date of accident and he was working as a contractor. The Tribunal taking into consideration the income tax return of the deceased reached to the conclusion that the monthly income of the deceased was about Rs.14,000/- on the basis of which the compensation was calculated and an amount of Rs.17,98,411 has been awarded to the claimants, vide award dated 28.6.2013.

3. It is this award which is under challenge in the present appeal, seeking for enhancement of the said amount.

4. The two primary grounds have been raised for enhancement of the compensation awarded, first being that the Tribunal has erred in not considering the agricultural income of the deceased for the purpose of calculating the compensation. Likewise, the future rise of income has also not been considered by the Tribunal and therefore prayed for the compensation to be suitably enhanced.

5. On the other hand, the impugned award has been supported by the counsel appearing for the respondents.

6. So far as the appeal in respect of the agricultural income is concerned, this Court does not find any error to have been committed by the Tribunal for not taking the same into account, as the agriculture land of the deceased is still being cultivated by the dependants and they can get the income that the deceased was drawing earlier.

7. However, so far as the future prospect part is concerned, this Court does feel that the Tribunal ought to have taken into consideration the fact

that once when it has been established from the income tax return itself that he was a professional contractor and was having an income of roughly about Rs.14,000/- a month, it would definitely have increased considerably in times to come. For all practical purposes, the Tribunal, in the opinion of this Court, should have taken at least 50% of the monthly income of the deceased towards future rise of income for the purpose of calculating the compensation. In view of the same, the impugned award deserves to be modified to the aforesaid extent. Thus, this Court is of the opinion that apart from the compensation what has been granted by the Tribunal the claimants are also entitled for payment of compensation on the future prospect on income that the deceased would have received.

8. The Tribunal relying upon the income tax return has reached to the conclusion that his monthly wage was Rs.14,000/- per month. If that be so, if 50% rise in his monthly income is taken for the purpose of calculating his future loss, it would be 7000x12x15(multiplier) which comes to around Rs.12,60,000/-. If we deduct 1/3rd from the said amount for personal expenses it would be Rs.4,20,000/- and minus the said amount from Rs. 12,60,000/- the remaining amount would be Rs. 8,40,000/-.

9. Thus, the present appeal is allowed to the aforesaid extent and the impugned award is modified to the extent that the claimants shall also be entitled for compensation under future prospect of an amount of Rs. 8,40,000/-. It is ordered that the said amount shall be paid by the Insurance Company within a period of two months from today. Rest of the award and the benefits awarded by the Tribunal would remain intact including payment of interest.

Sd/-
(P. Sam Koshy)
Judge

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