NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 1000 of 2013

1. Smt. Komin Bai W/o Late Dharmendra Yadav, aged about 31 years, R/o Pairi, P.S. and Tah. Gunderdehi, Distt. Durg, C.G.
2. Nageshwar Yadav S/o Late Dharmendra Yadav, aged about 7 years Minor, through mother Smt. Komin Bai, R/o Pairi, P.S. and Tah. Gunderdehi, Distt. Durg, C.G.
3. Yuvraj Yadav S/o Late Dharmendra Yadav, aged about 5 years, Minor, through mother Smt. Komin Bai, R/o Pairi, P.S. and Tah. Gunderdehi, Distt. Durg C.G.

---- Appellants

Versus

1. Santram Sahu S/o Late Shobharam Sahu R/o Ward No. 07, village Jhalmala, Post- Aadmabad, Tah. and P.S. Balod, Distt. Balod, C.G.
2. Branch Manager, Shriram General Insurance Co. Ltd., 1003, E-8 Rico Industrial Area, Sitapur, Jaipur (Rajasthan), 302022 (India)

---- Respondents

For Appellants	:	Shri Goutam Khetrapal, Advocate
For Respondent no.2	:	Shri S. S. Rajput, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

27/07/2017

Heard on I.A. No.02 for deleting the name of respondent no.1.

2. On due consideration, I.A. 02 is allowed as the respondent no.1 has since expired. Since the Insurance Company has already entered appearance, the issuance of notice to the Insurance Company stands dispensed with.

3. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 02.01.2013 passed by the Additional Motor Accident Claims Tribunal, Balod in Claim Case No.262 of 2011.

4. Since the facts of the case are not in dispute, this Court avoids giving the factual aspect of the case and the details of the deceased.

5. The challenge in the present appeal is to the quantum of the compensation granted by the Tribunal alleging that the compensation awarded by the Tribunal is on the lower side. Counsel for the appellants submits that the notional income

taken by the Tribunal is also on the lower side considering the fact that the accident is of the year 2011. The Tribunal has also erred in not taking income under the head of future prospects for quantifying the compensation. It is contended that the compensation under the other heads is also on the lower side as only Rs.25,000/- has been awarded under all other heads. Thus, prayed for enhancement of the compensation.

6. Counsel for the Insurance Company however opposing the appeal submits that the finding of the Tribunal is fair and reasonable and is based upon the evidences which have come on record, therefore, the impugned award does not warrant any interference.

7. Having heard the rival contentions put forth on either side and on perusal of the record, this Court is of the opinion that the notional income of Rs.3,000/- taken by the Tribunal is on the lower side as on June 2011 when the accident occurred undoubtedly even an unskilled labour would have been earning Rs.150 -200 a day which would amount to Rs.4,500 - 6,000 a month. If we take the minimum monthly wage of the deceased as Rs.4,500/- treating Rs.150 as his daily wage, the yearly income would be Rs.54,000/-. So far as the grant of compensation under the head of future prospects is concerned, the law is also by now well settled by a series of judgments of the Supreme Court right from the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** to the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54**, where under the normal circumstance, 50% of the wage is given towards future prospects in the event the age of the deceased at the time of accident was below 50 years. Accepting 50% towards future prospects, the total yearly income would be Rs.81,000/- of which if 1/3 is deducted towards personal expenses, the amount would be Rs.54,000/-. If the said amount is multiplied applying the multiplier of 15 as has been done by the Tribunal, the total amount under the head of loss of income would be Rs.8,10,000/- and it is ordered accordingly. Considering the fact that the claimant no.1 is the widow and claimant

nos. 2 & 3 are the minor children of the deceased, the compensation granted under the other heads of Rs.25,000/- is also on the lower side. Therefore, this Court is of the opinion that ends of justice would meet if the claimants are given a lump sum compensation of Rs.1,00,000/- under the other heads in stead of Rs.25,000/- as awarded by the Tribunal and it is ordered accordingly. Thus, the appellants shall be entitled for the total amount of Rs.9,10,000/- as compensation in stead of Rs.3,85,000/- as awarded by the Tribunal. The enhanced amount of compensation shall also carry interest at the same rate as has been fixed by the Tribunal. The enhanced amount shall be paid by the Insurance Company within a period of 2 months from the date of receipt of certified copy of this order.

8. With the aforesaid modification to the impugned order, the appeal stands allowed.

Sd/-

(**P. Sam Koshy)**
JUDGE

Bhola