

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 966 of 2013

1. Kartik Ram S/o Late Budhram Dhivar Aged About 55 Years
2. Nehru S/o Kartikram Dhivar Aged About 35 Years
3. Bhuneshwari S/o Kartikram Dhivar Aged About 30 Years

All R/o Bhatagaon, Raipur In Front Of Chhirapara Bramhadev Mandir), Civil and Revenue District Raipur C.G.

---- Appellants

Versus

1. Pankaj Kumar S/o Bihari Lal Sahu R/o Jarvay, Post- Tendua, P.S. Amanaka, Civil and Revenue Distt. Raipur C.G.

(Driver of offending vehicle Motor Cycle No.CG-04-CN/7584)

2. Bihari Lal S/o Tirath Ram Puriya R/o Heerapur, Jarvay, Post-Tendua, P.S. Amanaka, Civil and Revenue Distt. Raipur C.G.

(Owner of offending vehicle Motor Cycle No.CG-04-CN/7584)

3. United India Insu. Co. Ltd. Thru- Divisional Manager, United India Insu.Co.Ltd., Kachhari Chowk, Raipur, Civil & Distt. Raipur C.G.

(Insurer of offending vehicle Motor Cycle No.CG-04-CN/7584)

---- Respondents

For Appellant : Shri Amiyakant Tiwari, Advocate.

For Respondent No.1 & 2 : Shri Shivendu Pandya, Advocate.

For Respondent No.3 : Shri Dashrath Gupta, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice R.P. Sharma,

Judgment On Board By Justice Pritinker Diwaker

04/08/2017

This appeal arises out of the award dated 14.8.2013 passed by Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.210/2012 whereby in a death case awarding compensation of

Rs.1,37,000/- in favour of the claimants who are husband and sons of the deceased.

02. Brief facts of the case are that on 5.5.2012 when deceased Koushalyabai along with her grand-daughter Dinkeshwari was going on foot they were dashed by the offending vehicle motorcycle bearing registration No. CG-04-CN/7584 ridden by respondent No.1 in a rash and negligent manner as a result of which minor Dinkeshwari sustained injuries and Koushalyabai died. At the time of accident, deceased Koushalyabai was aged 65 years.

03. A claim case was filed by the claimants, three in number, claiming compensation of Rs.6.40 lakhs under various head, inter alia, pleading that on account of rash and negligent driving of the offending vehicle, the deceased lost her 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.1,37,000/- 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 respondents submit 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. Though the claimants have failed to adduce any evidence in respect of income of the deceased, taking the notional income of the deceased as Rs.6000/- per month, her annual income comes to Rs.72,000/-. As the deceased was survived by three members, after deducting 1/3rd (Rs.24,000/-) towards her personal and living expenses, the annual loss of dependency comes to Rs.48,000/-. In this case, considering the age of the deceased i.e. 65, multiplier of 7 would be applicable and as such, after applying this multiplier, the total loss of dependency is worked out to Rs. 3,36,000/-.

As regards the other conventional heads i.e. loss of estate, loss of consortium, loss of love and affection, funeral expenses etc., in the facts and circumstances of the case, we are of the opinion that a total sum of Rs.1 lakh 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.4,36,000/-. As the Tribunal has already awarded Rs.1,37,000/-, the appellants/claimants are entitled to have additional compensation of Rs.2,99,000/- which is rounded off to Rs. 3 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.

However, the condition as has been imposed by the Tribunal regarding payment of compensation by the insurance company to the claimants and then recovering the same from the driver and owner/respondents No. 1 & 2 shall remain intact and be applicable to this enhanced compensation also as the said finding has already been affirmed by the High Court in the appeals preferred by the owner and driver.

Sd/

(Pritinker Diwaker)

Judge

Sd/

(R.P. Sharma)

Judge