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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 994 of 2013

(Arising out of award dated 22.09.2012 in Claim Case No. 162/2010 of the learned 1st Additional Motor Accident Claims Tribunal, Jagdalpur, District Bastar)

Smt.Shakuntala Lohana W/o Chunni Lal Lohana Aged About 33 Years R/o Dalpat Sagar Ward, Jagdalpur, P.O. & P.S. Jagdalpur, Distt. Bastar C.G.

---- Petitioner

Versus

1. Smt.Shashikala Sundi And Ors. W/o Surjan Sundi Aged About 45 Years R/o Near New Bus Stand, Jagdalpur, P.O. & P.S. Jagdalpur, Distt. Bastar C.G.

2. The Manager The Oriental Insurance Company Ltd., Through- Branch Manager, Branch Office, Balaji Ward, Jagdalpur, P.O. & P.S. Jagdalpur, Distt. Bastar C.G.

3. Chunni Lal Lohana S/o Late Parul Lohana Aged About 47 Years R/o Dalpat Sagar Ward, Jagdalpur, P.O. & P.S. Jagdalpur, Distt. Bastar C.G.

---- Respondent

For Petitioner : Shri Shivendu Pandya, Advocate.
For Respondent No. 2 : Shri Ratan Pusty, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/07/2017

(1) This is claimants' appeal seeking enhancement of compensation awarded by 1st Additional Motor Accident Claims Tribunal, Jagdalpur (for short 'the Tribunal) passed in Claim Case No. 162/2010 vide its award dated 22.09.2016.

(2) As against the compensation of Rs.12,54,000/- claimed by

unfortunate parents of deceased –Ajay Lohana, aged about 18 years, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for his death in the motor accident on 15.11.2009, the Tribunal awarded a total sum of Rs.2,04,000/- to the claimants along with interest @ 6 % per annum from the date of filing of claim petition till its actual payment.

(3) The Tribunal, on a close scrutiny of the evidence led, held: the accident had occurred due to rash and negligent driving of Tractor-Trolley bearing registration No. CG/17/C/0434 by its driver; Ajay Lohana died on account of the injuries sustained by him in the said accident; respondent No. 2/insurance company liable for payment of compensation to the claimants as it could not establish violation of policy conditions and assessed and awarded aforementioned sum as compensation to the claimants.

(4) Shri Shivendu Pandya, learned counsel appearing for the appellant/claimant would submit that the Tribunal has fallen in error in assessing the income of the deceased as Rs.3,000/- per month and Rs.36,000/- per annum and thereby in awarding low amount of compensation of Rs.2,04,000/- which deserves to be suitably enhanced.

(5) On the other hand, Shri Ratan Pusty, learned counsel appearing for the respondent No. 2/Insurance Company supported the award impugned.

(6) I have heard the learned counsel appearing for the parties and perused award impugned.

(7) The facts that accident had occurred due to rash and negligent driving of driver of offending vehicle Tractor-trolley and that Ajay Lohana died on account of the injuries sustained by him in the said accident involving offending vehicle Tractor-trolley are now not in dispute.

(8) The deceased was aged about 18 years old and was working as Helper. The Tribunal after assessing the income of deceased as Rs. 3,000 per month/- i.e. Rs.36,000 per annum, deducted 50% of it towards his personal expenses as the deceased was bachelor at the time of accident and applied multiplier of 10 and awarded Rs. 1,80,000/- (Rs.18,000 X 10) on account of loss of dependency. The Tribunal further awarded Rs. 10,000/- towards love & affection; Rs.10,000/- for loss of estate; and Rs.2,000/- for funeral expenses & Rs. 2,000/- towards travelling expenses; and thus has awarded a total sum of Rs.2,04,000/- as compensation to the claimants for the death of deceased –Ajay Lohana.

(9) The Tribunal, after considering the income of the deceased as Rs.3,000/-per month i.e. Rs.36,000/- per annum, has awarded Rs.2,04,000/- as compensation to the claimants. In my opinion, that the Tribunal was not correct in assessing the amount of compensation by taking into consideration the income of the deceased as Rs.3,000/- per month only and applying the multiplier of 10. Therefore, I propose to re-compute the amount of compensation by taking into consideration the income of the deceased as Rs.4,000/- per month i.e. Rs.48,000/- per annum and by applying multiplier of 18 in place of 10.

(10) After deducting 50% of it towards personal expenses of deceased, the claimants' annual dependency is assessed as Rs.

24,000/-. By multiplying the claimant's annual dependency of Rs. 24,000/- with the multiplier of 18, the amount of compensation on account of loss of dependency would be Rs. 4,32,000/-. The claimants are further entitled for Rs. 50,000/- (Rs. 25,000/- towards loss of estate + Rs.25,000/ for love & affection) and thus, the claimants would become entitle for Rs. 9,20,000/- as compensation in place of Rs. 4,82,000/- as awarded by the Tribunal.

(11) In view of foregoing, the appeal is allowed in part. The compensation of Rs. 2,04,000/- awarded by the Tribunal is enhanced to Rs. 4,82,000/- i.e. Rs. 2,78,000/- over and above the amount awarded by the Tribunal.

(12) The enhanced amount of compensation of Rs. 2,78,000/- shall carry interest @ 6 percent per annum from the date of application till its actual payment. The award is modified to the above extent. Rest of the conditions mentioned in the award shall remain intact.

(13) The respondent No. 2/Oriental Insurance Company Ltd. is granted three months' time to deposit enhanced amount of compensation of Rs.2,78,000/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-