

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1076 of 2013**

1. Smt. Meeta Bai W/o Late Mayaram Bhardwaj Aged About 50 Years R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.
2. Umesh S/o Late Mayaram Bhardwaj Aged About 15 Years Minor, Thru- Mother Smt. Meeta Bai, R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.
3. Ku. Pooja D/o Late Mayaram Bhardwaj Aged About 11 Years Minor, Thru- Mother Smt. Meeta Bai, R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.
4. Ku. Santoshi D/o Late Mayaram Bhardwaj Aged About 9 Years Minor, Thru- Mother Smt. Meeta Bai, R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.
5. Suresh S/o Late Mayaram Bhardwaj Aged About 27 Years R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.
6. Naresh S/o Late Mayaram Bhardwaj Aged About 23 Years R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.
7. Dhanesh S/o Late Mayaram Bhardwaj Aged About 20 Years R/o Bhikhampura, P.S. And Tah. Sarangarh, Distt. Raigarh C.G.

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1. Niranjana Pradhan S/o Uday Nath Aged About 55 Years R/o Daspala, P.S. Daspala, Distt. Navagarh (Orissa)
2. Bholaram Agrawal S/o Dwarika Prasad Agrawal R/o Saraipali, P.S. Saraipali, Distt. Mahasamund C.G.
3. National Insu. Co. Ltd. In Front Of Bharatmata School, G.E. Road, Tatibandh, Raipur C.G.

---- Respondents

For Appellants	:	Shri Shikhar Sharma, Advocate.
For Respondents 1&2	:	None.
For Respondent No.3	:	Shri B.N. Nande, Advocate

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

Order On Board

By Pritinker Diwaker, J

21/07/2017

1. This appeal arises out of the award dated 30.08.2013 passed by Additional Motor Accident Claims Tribunal (for short the "Tribunal") Raigarh in Claim Case No.40/2011 awarding a compensation of Rs.1,50,000/- in favour of the appellants/claimants for the death of Mayaram Bhardwaj.

2. Facts of the case in brief are that on 13.09.2011 when deceased was going to Korba West Power Plant M.M. Company from his house, at the same time, a truck bearing registration No.CG-04-FD-5772 driven by respondent No.1 herein, in a rash and negligent manner hit him as a result of which he died in the hospital during the treatment. A claim petition was filed by the appellants/claimants who happen to be the legal heirs of the deceased claiming a compensation of Rs.10,03,000/- *inter alia* pleading that the deceased at the relevant time was aged about 60 years, he was working as mason and earning Rs.6,000/- per month.

3. Pleading of the claimants have, however, been denied by the respondent/insurance company.

4. After evaluating the evidence available on record, the Tribunal has awarded the compensation of Rs.1,50,000/- along

with interest @ 6% per annum in favour of the appellants/claimants taking the notional income of the deceased as Rs.3,000/- per annum and applying the multiplier of 5 and deducting 1/3rd towards his personal expenses. Hence this appeal for enhancement.

5. Counsel for the appellants/claimants submits that the Tribunal has erred in law in not awarding adequate compensation to the claimants. He also submits that the notional income has been considered by the Tribunal as Rs.36,000/- per annum whereas it ought to have been considered Rs.72,000/- per annum. He also submits that considering the age of the deceased, the multiplier of 9 ought to have been applied by the Tribunal, whereas it has applied the multiplier of 5. It has been also submitted that the amount awarded under the conventional heads is also quite inadequate and deserves to be suitably enhanced.

6. On the other hand, counsel for the respondent/insurance company supports the award impugned.

7. Heard counsel for the parties and perused the documents on record.

8. In a motor accident claim case, what is important is that, the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation, nor a Bonanza.

9. Now we shall examine as to whether the compensation of Rs.1,50,000/- awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the case.

10. True, the claimants/appellants pleaded that deceased used to earn Rs.6,000/- per month by working as labour (mason), no cogent and reliable evidence was led before the Tribunal to establish the income of the deceased to the extent of Rs.6,000/- per month. Therefore, we do not find any fault in the approach of the Tribunal in discarding the appellants' evidence about the income of the deceased. Nevertheless, the notional income of the deceased assessed by the Tribunal at Rs.3,000/- per month and Rs.36,000/- per annum in the year 2011 is certainly on the lower side and requires reconsideration.

11. Considering that deceased Mayaram Bhardwaj, on the date of accident, was aged about 60 years, we are of the opinion that he could have easily earned Rs.200/- per day in the year 2011 by working as Mason. We, therefore, propose to recompute the compensation taking the notional income of the deceased at Rs.6,000/- per month and Rs.72,000/- per annum. There being in all seven claimants, the deduction of 1/5th towards personal expenses of the deceased from his annual income would be just and proper. Accordingly, by deducting 1/5th from the annual income of the deceased, the

claimants' dependency is assessed at Rs.57,600/- per annum.

12. Looking to the age of the deceased and seven claimants/appellants i.e. 60, 50, 15, 11, 09, 27, 23 and 20 respectively, at the time of accident, we are of the opinion that the Tribunal has not rightly applied the multiplier in this case. In fact, for the age group of 60 years, multiplier of 9 has to be applied and not 5 as per the Schedule. Therefore, the multiplier is enhanced from 5 to 9 and compensation is assessed to Rs.57,600/- x 9 = Rs.5,18,400/-. That apart, the amount awarded under the conventional heads also appears to be on lower side. Thus, keeping in view all these things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimants/appellants are entitled for compensation in the following manner:-

Head	Amount awarded	Amount enhanced
Loss of consortium	Nil	1,00,000/-
Love and affection	25,000/-	50,000/-
Mental agony	Nil	25,000/-
Funeral	5,000/-	25,000/-
	Total	2,00,000/-

13. Thus, the total compensation including the amount awarded on conventional heads comes to Rs.7,18,400/- (5,18,400/- + 2,00,000/-) for which the claimants are entitled to receive as compensation for the death of deceased Mayaram Bhardwaj. Since the Tribunal has already awarded Rs.1,50,000/-, after deducting the same the

claimants/appellants are entitled for enhanced amount of Rs.5,68,400/-. This additional amount of compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization. The amount received by the claimants, if any, shall be adjusted in the enhanced sum.

14. Appeal is thus allowed in part with the modification in the award impugned as indicated above.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Ram Prasanna Sharma)
Judge