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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 140 of 2017**

United India Insurance Company Limited Through Its Divisional Manager, Divisional Office- 2nd Floor Gurukripa Towers, Vyapar Vihar Road, Bilaspur, District Bilaspur, Chhattisgarh

**---- Appellant**

**Versus**

1. Daduram Dhruv S/o Radheshyam Dhruv, Aged About 46 Years
2. Smt. Usha Dhruv W/o Daduram Dhruv, Aged About 40 Years
3. Ku. Priyanka Dhruv D/o Daduram Dhruv, Aged About 21 Years
4. Ku. Garima Dhruv D/o Daduram Dhruv, Aged About 18 Years
5. Saurabh Dhruv S/o Daduram Dhruv, Aged About 16 Years Minor Through Guardian Mother Smt. Usha Dhruv
6. Shaurya Dhruv S/o Daduram Dhruv, Aged About 6 Years Minor Through Guardian Mother Smt. Usha Dhruv

   All Respondent No. 1 to 6 are R/o Village Belha, P.S. Belha, District Bilaspur, Chhattisgarh
7. Satyendra Singh S/o Kamta Singh Yadav, Aged About 27 Years R/o Village Hatiya, Amaura, P.S. Karakat, District Rohtas (Bihar)
8. Awdhesh Mehta S/o Kamal Mehta, R/o G.E.Road Tatibandh, Raipur, District Raipur, Chhattisgarh, Present Address- Beltikari, P.O. Jhabar, Tahsil Katghora, P.S. Dipka, District Korba, Chhattisgarh

**---- Respondents**

**MAC No. 168 of 2017**

1. Dadu Ram Dhruw S/o Radhe Shyam Dhruw, Aged About 46 Years
2. Smt. Usha Dhruw W/o Dadu Ram Dhruw, Aged About 42 Years
3. Kumari Priyanka Dhruw D/o Dadu Ram Dhruw, Aged About 21 Years
4. Kumari Garima Dhruw D/o Dadu Ram Dhruw, Aged About 18 Years
5. Shourabh Dhruw S/o Dadu Ram Dhruw, Aged About 16 Years Minor Through Legal Guardian Smt. Usha Dhruw
6. Shourya Dhruw S/o Dadu Ram Dhruw, Aged About 6 Years Minor Through Legal Guardian Smt. Usha Dhruw

   All above Appellant No. 1 to 6 are R/o Village- Bilha, Thana- Bilha, District- Bilaspur, Chhattisgarh

**---- Appellants**

**Versus**

1. Satyendra Singh S/o Kamta Singh Yadav, Aged About 27 Years R/o Village- Hatiya Amaura Thana Karakat District- Rohtas, Bihar
2. Avdhesh Mehata S/o Kamal Mehata, R/o G.E.Road Tatibandh Raipur, Distt. Raipur, Chhattisgarh, Hall Mukam- Beltikari P.O. Jhaabar Tahsil Katghora Thana Deepika District Korba, Chhattisgarh

3. Branch Manager, United India Insurance Company Limited, Through Branch Office Gurukripa Tower 2nd Floor Vyapar Vihar Road Bilaspur, Chhattisgarh

**…….Respondents**

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| For Appellant | : | Shri Dashrath Gupta, Advocate |
| For respective Respondents | : | Shri A.L. Singroul and Shri Yogesh Chandra, Advocates |

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**10/08/2017**

1. These are two appeals filed by the Insurance Company as well as by the claimants assailing the award dated 23.09.2016 passed by the Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No. 35/2016. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicle Act in a death case has awarded compensation of Rs.6,15,984/- with interest @ 7.5% per annum from the date of application. The Insurance Company has challenged the award on the ground that license which the driver of the offending vehicle at the relevant point of time had a fake license and therefore, Insurance Company ought to have been exonerated from its liability.

2. The contentions of the Insurance Company is that they had appointed one Vinod Kumar Singh and investors of the Insurance Company to invest upon the license which the driver of the offending vehicle at the relevant point of time had. He submits that on the said investors subsequently have got an endorsement from the District Transport Officer, Rohtas Sasaram (Bihar) stating that such license has not been issued from the District Transport Officer, Rohtas Sasaram (Bihar). The counsel for the appellant had along with this report of the said investors and endorsement of the District Transport Officer, Rohtas Sasaram (Bihar) had moved application under Order 41 Rule 27 for seeking permission for taking additional documents and for taking evidence on record. This application and the documents enclosed along with the said application is not acceptable to this Court for the simple reason that from the documents itself it reflects that the report of the investors as well as

the endorsement put forth by the District Transport Officer, Rohtas Sasaram (Bihar) are both of date much subsequent to the final award itself being passed by the Tribunal which itself shows that when the accident took place and the Insurance Company received intimation in this regard or at least during the course when the matter was being considered before the Tribunal the Insurance Company did not take any prompt steps for getting the driving license verified.

3. In view of the same, this Court does not find any strong case made out for permitting the Insurance Company to led the additional evidence by accepting those documents which have been obtained subsequent to the final award being passed. What further also reflects from the impugned award is that Insurance Company as such has not produced any evidence during the course of hearing, which further weakens the case of the Insurance Company.

4. Thus this Court does not find any strong case made out by the Insurance Company calling for any interference with the impugned award and the appeal of the Insurance Company thus deserves to be and is accordingly rejected.

5. Coming to the appeal preferred by the claimants counsel for the claimants submitted that the Tribunal has erred in as much as not accepting the income as has been claimed by the claimants for the purpose of quantifying the compensation. According to the counsel for the claimants it was pleaded and deposed before the Court below that the deceased at the relevant point of time was working as Supervisor in a Fertilizer Company, Rajnandgaon and was earning roughly Rs.9,000/- per month i.e. @ Rs. 300/- per day. Further and as such monthly income ought to have been accepted at Rs.9,000/- per month what is also contended by the counsel for the appellant is that future income of 50% which should had been taken by the Tribunal instead it has taken only 30%. According to the judgment of Supreme Court in the case of ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr (2009) 6 SCC 121*** it ought to have been 50% considering the age of the deceased. He further submits that compensation paid under the other head to the claimants are also on

the lower side. Thus said for the suitable enhancement of the compensation.

6. So far as considering the income of the deceased is concerned, true it is that the claimants have not been able to prove fact that he was earning Rs.300/- per day to fix the monthly income at Rs.9,000/-. Further what cannot brushed out is that date of accident is 06.12.2015 and age of the deceased at that point of time was 22 years. The minimum wage even of an unskilled labour at that point of time was more than Rs.200/- per day and therefore for all practical purposes monthly income of the deceased ought to have been taken atleast Rs.6,000/- instead of Rs.3960/- which has been taken by the Tribunal. It is ordered accordingly.

7. So far as future prospect is concerned, this Court has no hesitation in reaching to the conclusion that as per the law laid down by the Supreme Court starting from the judgment of Sarla Verma (Supra) and the subsequent decisions in future prospect in respect of deceased below 40 has to be add 50% instead of 30% as has been awarded by the Tribunal. It is ordered accordingly that 50% of Rs.6,000/- should be taken towards future prospect of the deceased for the purpose of quantifying the compensation.

8. However, as far as compensation under the other heads are concerned, if we take into consideration the amount of compensation granted to the different claimants, this Court does not find any strong case made out for enhancing the same.

9. Thus this Court is of the opinion that the compensation awarded to the claimants deserves enhancement under the head of loss of dependency, which in the instant case considering his monthly wage to be Rs.6000/- and adding 50% towards future prospect would become Rs.9000/- of which if 50% is deducted towards personal expenses, the amount would be Rs.4500/-, which make yearly income to be Rs.54000/- which if multiplied applying the multiplier of 18 would make it Rs.9,72,000/-. It is ordered accordingly that the claimants shall be entitled for compensation of loss of dependency of Rs.9,72,000/- instead of Rs.5,55,984/- thus the claimants shall be entitled for an enhanced amount of Rs.4,16,016/-. The said

enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal. Rest of the compensation awarded by the tribunal and the conditions imposed shall remain intact.

10. Thus appeal stands allowed to the aforesaid extent.

**Sd/-**
**(P. Sam Koshy)**
**Judge**

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