

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.615 of 2014

1. Shivkumari Sahu W/o Late Ram Singh Sahu, aged about 36 years (Now 41 years).
2. Kumari Mamta Sahu, aged about 19 years (Now 24 years).
3. Ku. Huleshwari Sahu D/o Late Ram Singh Sahu, aged about 17 years (Now 22 years).
4. Sohan Kumar Sahu S/o Late Ram Singh Sahu, aged about 15 years (Now 20 years).

All are R/o village Tanda, Post Akoli (Mandhar), P.S. Dharsiva, Tahsil Raipur, Civil and Revenue District, Raipur (C.G.).

---Appellants

Versus

1. Balram S/o Balmukund, R/o Bhajpuri, P.S.Basana, District Mahasamund. (C.G.). (Driver).
2. Guljar Singh S/o Shri Girdhar Singh Thakur, R/o Gurunanak Chowk, Near Gurudwara, New Kursipar, Bhilai, District Durg (C.G.).
3. New India Insurance Company, L.I.C. Building, Commercial Complax, Jivan Bima Marg, Pandari, Raipur (C.G.).

---Respondents

For appellants	:	Shri Shikhar Sharma, Advocate.
For resp.No.3/Insurance Company	:	Shri B.N.Nande, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/11/2017

1. Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act assailing the award dated 11/03/2014 passed by the learned Seventh Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Motor Accident Claim Case No.89/2011. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has

awarded a compensation of Rs.8,26,400/- with interest @ 6% per annum from the date of application.

2. The counsel for the appellants submits that, the compensation awarded is unreasonably low as the income assessed by the Tribunal is on the lower side and that there was sufficient proof of the salary that the deceased was earning at the time of the accident and witness in this regard was also examined and the salary slip also was proved, yet the Tribunal has taken the income at Rs.3,000/- per month whereas the accident in the instant case had occurred in the year 2009 and thus prayed for the amount of compensation to be suitably enhanced.

3. The counsel for the Insurance Company however opposing the appeal submits that, it is a case where the award passed by the Tribunal is otherwise just and reasonable and that the claimants in the instant case has also been awarded the compensation under the conventional head on the higher side and therefore there does not seems to be a strong case made out for interfering with the amount of compensation awarded and prayed for rejection of the appeal.

4. Perusal of record would show that, the date of accident in the instant case was 15/05/2009, the deceased in the instant case is Ram Singh Sahu, aged around 44 years working as a Plant Manager earning Rs.10,500/- as has been claimed.

5. Though, there is no sufficient proof of establishing the income and the salary of the deceased, this Court considering the fact that the accident is of

the year 2009 reaches to the conclusion that, under any circumstances, the deceased would have been earning at least Rs.200/- per day i.e. Rs.6,000/- per month. The income of the deceased thus is assessed at Rs.6,000/- per month instead of Rs.3,000/- as assessed by the Tribunal.

6. We proceed to compute the compensation assessing his monthly income at Rs.6,000/- which would make the yearly income at Rs.72,000/-. If 30% of the said amount i.e. Rs.21,600/- is added towards future prospects, the amount would come to Rs.93,600/- of which if 1/4th is deducted towards personal expenses, the amount would come to Rs.70,200/- which if multiplied by applying multiplier of 14, the amount would become Rs.9,82,800/-.

7. So far as the compensation under the conventional head is concerned, the Tribunal in the instant case has awarded the compensation of Rs.3,85,000/-. The counsel for the Insurance Company submits that, this award under the conventional head is on the higher side and that the Hon'ble Supreme Court in the case of **Pranay Sethi National Insurance Company Limited Vs. Pranay Sethi & Ors. (SLP Civil No. 25590/2014, decided on 31/10/2017)** has held that, the compensation under the conventional head should be only around Rs.70,000/-.

8. Considering the entire facts and circumstances of the case and taking note of the fact that, the award in the instant case is of the year 2014 and the judgment of the Supreme Court in the case of Pranay Sethi (Supra) has come recently, this Court does not want to reduce the compensation to

Rs.70,000/-, but considering the totality of the facts this Court quantifies the compensation under the conventional head keeping in view the decision of the Supreme Court in the case of **Rajesh & Ors. Vs. Rajbir Singh & Ors. [2013 {9} SCC 54]** at a lump sum amount of Rs.2,00,000/- instead of Rs.3,85,000/- as awarded by the Tribunal. Thus, the total compensation payable to the claimants would become Rs.11,82,800/- instead of Rs.8,26,400/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

9. The appeal stands allowed and disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE