NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 621 of 2014

Smt. Ramkunwar W/o Late Bhagwati Kashyap Aged About 30 Years R/o Village & P.S. Bharri, Tah. Marwahi, Distt. Bilaspur C.G.

---- Appellant

Versus

1. Kumar Singh S/o Bhagirathi Singh Aged About 30 Years R/o Village & P.S. Bharri, Tah. Marwahi, Distt. Bilaspur C.G.
2. Kalika Singh Thakur S/o L.S. Thakur Aged About 39 Years R/o Village & P.S. Bharri, Tah. Marwahi, Haal Mukam- Jaini Bechal, Pendra Road, Distt. Bilaspur C.G.
3. The Oriental Insurance Co. Ltd. Address- Regional Office Rama Trade Centre, Near Bus Stand, Bilaspur, Distt. Bilaspur C.G.

–--Respondents

For Appellant	:	Mr. Rakesh Pandey, Advocate
For Respondent No.3	:	Mr. Deepak Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/08/2017

1. The present is an appeal under Section 173 of the Motor Vehicle Act whereby the award dated 02.04.2014, passed by the Additional Motor Accident Claims Tribunal, Pendra Road, District Bilaspur (CG) in Motor Accident Claim Case No. 18/2013 has been decided. Vide the said impugned award, the Tribunal has assessed the monthly wages of the deceased at Rs.3,000/- and has quantified the compensation at Rs.4,85,000/- with interest @ 6% per annum from the date of award. It is this award which is under challenge.

2. Counsel for the appellant submits that the wife of the deceased/claimant had entered appearance before the Tribunal and deposed that the deceased was working as a skilled labour working as labour in installation of Boring machines (Pump Meson) and that he was earning Rs.12,000/- a month and ignoring this fact the Tribunal has granted compensation accepting the notional income to be Rs.3,000/-. This according to the counsel for the appellant is extremely on lower side and therefore deserves suitable

modification. It was further contended by the appellant that the interest awarded by the Tribunal also ought to had been from the date of application and not from the date of award as has been passed by the Tribunal and on this ground also the impugned award deserves to be modified.

3. The counsel appearing for the Insurance Company however opposes the appeal and submits that there is no evidence whatsoever led by the claimant to prove and establish the nature of employment of the deceased and also the wages that he was drawing. According to the counsel for the Insurance Company in the absence of any evidence to substantiate their contentions, the award of the Tribunal being just and reasonable does not warrant any interference.

4. Having heard contentions put forth on either side and on perusal of the record what is undisputed is the accident that occurred, the deceased succumbing to the injuries sustained from the accident, the vehicle involved in the accident and the vehicle being duly insured under the respondent No.3/Insurance Company. The only issue which has to be determined by this Court is whether the notional income of Rs.3,000/- as has been taken by the Tribunal was proper, legal and justified. What is clearly reflected from the record is that the Insurance Company as such has not led any evidence to disprove the contents of the statements made by the claimant. In absence of any evidence of rebuttal, the evidence of the claimant has to be accepted.

5. If we further examine the record, what clearly reflects is that the date of accident in the instant case was of 01.07.2013 and it is in everybody's knowledge that even an unskilled labour in July, 2013, would have earned around Rs.200/- a day that would make it Rs.6,000/- a month. The notional income of Rs.3,000/- that has been assessed by the Tribunal is extremely on lower side which makes it an earning of only Rs.100/- per day which was not the minimum wages of an unskilled labour in the year 2013, and therefore, this Court is of the opinion that the income of the deceased at the

relevant point of time should had been atleast that of Rs.6,000/- which should had been assessed by the Tribunal. It is ordered accordingly and it is further held that the compensation payable to the claimant shall be quantified accepting the monthly wages of the deceased to be Rs.6,000/-. If that accepting Rs.6,000/- as monthly wages, the amount of compensation which the claimant would have got is Rs.72,000/- yearly of which after deduction 1/3 the amount would be Rs.48,000/- and which multiplied by applying multiplier of 15, the amount would be Rs.7,20,000/-. It is accordingly ordered that the claimant shall be entitled for the loss of dependency of Rs.7,20,000/- instead of Rs.3,60,000/- as awarded by the Tribunal.

6. It is further submitted that the amount of compensation awarded under other head shall remain Rs.1,25,000/- as has been assessed by the Tribunal, thus making the total compensation payable to the claimant at Rs.8,45,000/-. So far as the payment of interest is concerned, it is by now well settled practice and precedent that the interest is always awarded from the date of application, but in the instant case, the Tribunal has awarded compensation only from the date of award, which according to this Court is not proper and same is accordingly ordered to be modified to the extent that the interest payable to the claimant shall be from the date of application i.e. w.e.f. 05.08.2013 and not from the date of award as passed by the Tribunal.

7. The appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
Judge

Ved