

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 582 of 2017**

The Oriental Insurance Company Limited through Divisional Manager, the Oriental Insurance Company Limited, Jail Road, Raipur, Tahsil and District Raipur, Chhattisgarh

---- Appellant**Versus**

1. Vijay Kumar S/o Late Bodh Ram Sonwani, aged about 35 years, R/o Sasaholi, Police Station Newra, District Raipur, Chhattisgarh
2. Ajit Kumar S/o Vijay Kumar Sonwani, aged about 12 years, minor represented through next friend and father Vijay Kumar Sonwani, R/o Sasaholi, Police Station Newra, District Raipur, Chhattisgarh
3. Ku. Aarti D/o Vijay Kumar Sonwani, aged about 10 years, minor represented through next friend and father Vijay Kumar Sonwani, R/o Sasaholi, Police Station Newra, District Raipur, Chhattisgarh
4. Amit Kumar S/o Vijay Kumar Sonwani, aged about 8 years, minor represented through next friend and father Vijay Kumar Sonwani, R/o Sasaholi, Police Station Newra, District Raipur, Chhattisgarh
(Claimant No. 1 to 4)
5. Prem Chand S/o Angeshwar Dhruv, R/o Suhela, District Baloda Bazar-Bhatapara, Chhattisgarh(Driver of the vehicle truck Bearing No. C.G.10 H 9111)
6. Jagjit Singh S/o Rajendra Singh Chawla, R/o Chawla Munshi Ismail Ward, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh(Owner of the vehicle truck Bearing No. C.G.10 H 9111)

---- Respondents

For Appellant : Shri Raj Awasthi, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/10/2017**

Present is an appeal by the Insurance Company under Section 173 of the Motor Vehicles Act assailing the award dated 23.12.2016 passed by the 3rd

Motor Accident Claim Tribunal, Raipur (CG) in Claim Petition No. 130/2013. Vide the impugned award, the Tribunal in a claim case under Section 166 of MV Act has awarded a compensation of Rs.12,57,852/- with interest @ 7.5% per annum. The Tribunal has also imposed penal interest of 9% if the amount is not deposited within 90 days from the date of award.

2. The challenge by the Insurance Company is to the quantum of compensation awarded.

3. The undisputed fact in the instant case is the date of accident being 02.09.2013. The deceased Smt. Mogra Bai, aged around 30 years was working as a tailor. The claimants had claimed the income of the deceased to be Rs.6,000/- per month whereas the Tribunal has accepted only Rs.4,500/- for the purpose of quantification of compensation. This Court does not find any error to have been committed by the Tribunal while accepting Rs.4,500/- as the monthly income of the deceased. The claimants have also been granted 50% of the income towards future prospects which again by now is a settled position of law by a catena of decisions of the Hon'ble Supreme Court and the same does not deserve any modification. So far as the calculation of compensation accepting Rs.4,500/- as monthly income of the deceased is concerned, the Tribunal has rightly made the calculation as is reflected from paragraph-29 of the impugned judgment and this Court does not find the said calculation to be erroneous in any manner. Even the compensation awarded under the conventional head does not seem to be exorbitant in view of the principles laid down by the Supreme Court in the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54**.

4. Thus, in the opinion of this Court no strong case is made out by the Insurance Company calling for interference with the impugned award.

5. At this juncture, counsel for the appellant submits that the Tribunal should not have imposed penal interest of 9% in the event of the award not being honoured within 90 days.
6. Considering the facts and circumstances of the case and also the fact that the Insurance Company has preferred the present appeal, this Court is of the opinion that the penal interest so awarded by the Tribunal stands deferred for a further period of 90 days from today. If the Insurance Company fails to deposit the entire amount of compensation awarded by the Tribunal within a further period of 90 days from today, the said amount shall carry interest as fixed by the Tribunal i.e. @ 9% per annum.
7. The appeal stands allowed to the aforesaid extent.

Sd/-
(P. Sam Koshy)
JUDGE