

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 596 of 2017**

1. Smt. Ramkunwar Siwana W/o Laxmi Ram Siwana, aged about 50 Years
R/o Village Selegondi P.S. Korar District North Bastar Kanker,
Chhattisgarh
2. Smt. Indrawati Siwana Wd/o Late Manohar Lal Siwana, aged about 30
Years R/o Village Selegondi P.S. Korar District North Bastar Kanker,
Chhattisgarh
3. Master Akshay Kumar Siwana S/o Late Manohar Lal Siwana, aged
about 12 Years Minor Represented Through Natural Guardian Smt.
Indrawati Siwana (Mother) R/o Village Selegondi P.S. Korar District
North Bastar Kanker, Chhattisgarh
4. Master Bhupesh Kumar Siwana S/o Late Manohar Lal Siwana, aged
about 10 Years Minor Represented Through Natural Guardian Smt.
Indrawati Siwana (Mother) R/o Village Selegondi P.S. Korar District
North Bastar Kanker, Chhattisgarh(Claimants)

---- Appellants**Versus**

1. Omprakash Sen S/o Manrakhan Sen, aged about 45 Years R/o
Lakhenagar Near Trimurty Mandir P.S. Pandari District Raipur,
Chhattisgarh(Driver of the Vehicle)
2. Royal Travels Sayaid Anwar Ali New Bus Stand Pandari Raipur P.S.
Pandari District Raipur, Chhattisgarh(Owner of the Vehicle)
3. The Oriental Insurance Company Limited, Through Branch Manager,
Branch office Trade Centre Second Floor Near Gandhi Chowk
Dhamtari, Chhattisgarh(Insurer)

---- Respondents

For Appellant	:	Shri Siddharth Bajpai, Advocate
For Respondent no.3	:	Shri Hanuman Prasad Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board**

18/07/2017

Present is an appeal under Section 173 of the Motor Vehicles Act by the claimants seeking for enhancement of the compensation. The challenge in the present case is the award dated 20.01.2017 passed by the Additional Motor Accident Claims Tribunal (FTC), North Bastar, Kanker in Claim Case No. 89 of 2015.

2. The fact of the case in brief is that the deceased Laxmiram Siwana aged around 56-60 years met with an accident on 02.03.2015 while travelling on a Pickup van bearing registration No. CG04 JB 8418 to attend a marriage function was dashed with a bus belonging to respondent no.2 driven by respondent no.1 and insured by respondent no.3. As a result of the said accident, Laxmiram succumbed to the injuries. The family members moved a claim application under Section 166 of the MV Act before the Claims Tribunal.

3. The Tribunal considering the evidences which have come on record vide impugned award dated 20.01.2017 granted compensation of Rs.3,09,450/- to the claimants.

4. It is this award which is under challenge by the appellants seeking for enhancement of the compensation.

5. According to the counsel for the appellants, the Tribunal has erred in law in as much as not taking the proper wages for quantifying the compensation. Counsel for the appellants submits that the deceased was working as a driver and earning an amount of Rs.9,000/- per month and therefore, the compensation ought to have been calculated accepting the wages to be Rs.9,000/-. Thus, prayed for modification of the impugned award suitably.

6. Counsel appearing for the Insurance Company, however, opposing the appeal submits that the impugned award is fair and reasonable and the same

does not warrant any interference as the finding arrived at by the Tribunal is based upon the evidences which have come on record and prayed for rejection of the appeal.

7. Having considered the rival contentions put forth on either side and on perusal of the record the date of accident, the resultant death of Laxmiram from the said accident and the vehicle belonging to respondents 1 & 2 involved in the accident is not disputed. The vehicle being insured by respondent no.3 is also not disputed. The only issue which now stands to be adjudicated upon is whether the amount of compensation awarded by the Tribunal was proper, legal and justified or not.

8. So far as the wage of the deceased is concerned, the Tribunal has taken a notional income of Rs.3,000/- a month. It is any-body's guess that the wages of a labour in the year 2015 must have definitely been somewhere around Rs.150-200 per day which comes to Rs.4,500 to 6,000/- a month. The notional income taken by the Tribunal in the present case in an accident that took place in March, 2015 definitely is on the lower side. Thus, it deserves to be enhanced. Considering the facts and circumstances of the case, this Court feels that the wages for the purpose of calculating compensation should have been at least Rs.5,000/- per month in stead of Rs.3,000/- what has been taken by the Tribunal and it is ordered accordingly. Taking Rs.5,000/- monthly wages, the annual income would be Rs.60,000/-. If 15% of the same is added towards future prospects it will be Rs.69,000/-. Further if 1/3rd of the said amount is deducted under personal expenses, the balance amount would be Rs.51,750/- and applying the multiplier of 9, the total amount would be Rs.4,65,750/-. Thus, for the loss of dependency, the amount of compensation payable to the claimants would be Rs.4,65,750/- in stead of Rs.2,79,450/- as awarded by the Tribunal.

9. So far as the amount granted by the Tribunal under the other heads are concerned, taking into consideration the fact that the accident had occurred in the year 2015 and the total number of claimants are 4 and also considering the view laid down by the Hon'ble Supreme Court right from the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** to the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54**, the lump sum compensation of Rs.1,00,000/- under the other heads would be justified in stead of Rs.30,000/- that has been awarded by the Tribunal. Thus, the appellants shall be entitled for a total compensation of Rs.5,65,750 in stead of Rs.3,09,450/-. The enhanced amount of Rs.2,56,300/- would be paid by the Insurance Company within a period of two months from the date of certified copy of this order. The said amount shall also carry interest at the rate as awarded by the Tribunal.

10. Thus, the appeal stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE