

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 598 of 2017**

1. Sureshchandra Sinha S/o Jagatram Sinha, Aged About 45 Years R/o Village Thekabad, P.S. Kanker, District North Bastar Kanker, Chhattisgarh
2. Smt. Uttara Bai W/o Sureshchandra Sinha, Aged About 40 Years R/o Village Thekabad, P.S. Kanker, District North Bastar Kanker, Chhattisgarh(Claimants)

---- Appellants**Versus**

1. Lallan Pd. Ramadhar S/o Hardesh Prasad Ramadhar, Aged About 50 Years R/o Bhosalpur P.S. Karimuddinpur District Ganji (U.P.) Present Address Fouji Nagar Industrial Area Housing Board Bhilai P.S. Jamul District Durg, Chhattisgarh(Driver Of The Vehicle)
2. Ram Lakhan Gupta S/o Saraju Prasad Gupta, R/o Ward No.5 Near A C C Ram Mandir Jamul P.S. Jamul District Durg, Chhattisgarh(Owner Of The Vehicle)
3. The United Insurance Company Limited, Through Branch Manager, Branch Office Krishna Complex First Floor Jail Road Kachahari Chowk Raipur, Chhattisgarh(Insurer)

---- Respondents

For Appellants	:	Shri PK Tulsyan, Advocate
For Respondent No.3	:	Shri Ratan Pusty, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/07/2017**

1. The present is a claimant's appeal under Section 173 of the Motor Vehicle Act, 1988 (for short 'the Act, 1988') seeking for enhancement of the compensation awarded by the Tribunal on 08.02.2017 by the Additional Motor Accident Claim Tribunal (FTC), North Bastar, Kanker (for short 'the Tribunal') in claim case No.10/2016.

2. By the said impugned award, the Tribunal in a proceeding under Section 166 of the Act, 1988 in an appeal by the parents of the deceased Shiv Prasad Sinha, who met with an accident on 05.12.2015 when he was hit by the offending vehicle i.e. the truck bearing registration No.CG-07/E/2827, has granted a compensation to the tune of Rs.6,53,340/-.
3. Since the factual details of the case are not in dispute, this Court refrains from giving entire details of the incident. Now the only issue which is left to be considered whether the amount of compensation awarded by the Tribunal is legal and justified or not.
4. In the instant case the deceased at the relevant point of time was 19 years of age, the date of incident is December-2015, the notional income taken by the Tribunal for the purposes of quantifying the income is Rs.3000/- per month. The grievance of the appellants is that the notional income of Rs.3000/- accepted by the Tribunal is on the lower side, which should have been at least from Rs.4500/- to Rs.6000/-. Likewise it is also contended that the compensation under the other heads of Rs.10000/-, under loss of love and affection Rs.10000/- totaling Rs.20000/- is also on the lower side as it is a recent accident that took place in December, 2015. Thus, the counsel for the appellant prayed that the amount of compensation under the aforesaid heads be enhanced.
5. Counsel for the insurance company, however, opposes the appeal and submits that considering the age of the deceased and the fact that

he was a student and there was no fixed income as such, therefore, the quantification done by the Tribunal is proper, legal and justified and it being reasonable it does not warrant any interference.

6. Having considered the rival submissions on either side and on perusal of the record it is admitted that the present incident took place in December-2015 and it is any body's guess that even a daily wager as late as in 2015 would be earning at least Rs.4500/- to Rs.6000/- per month. Even if we take the minimum of it his monthly income would Rs.4500/- and the Tribunal should have taken this amount into account while quantifying the amount of compensation. The Tribunal should have particularly appreciated that the accident has taken place in December 2015. Thus, this Court holds that the claimants shall be entitled for compensation assessing the monthly wage of the deceased to be Rs.4500/-. Likewise, the compensation under the heads of loss of love and affection of an engineering student etc. are also on a extremely lower side.
7. In view of the judgment of the Supreme Court in **Rajesh and others Vs. Rajbir Singh & Others**¹ this Court is of the opinion that ends of justice would meet if the amount under these heads is enhanced to 1Lakh instead of Rs.25000/- as awarded by the Tribunal. If we take the monthly wages of the deceased to be Rs.4500/- and if we add 50% towards future prospects, the amount would become Rs.6750/- and after deducting 50% towards personal expenses, the amount would become Rs.3375 and if multiplied by 12 the amount would

¹ (2013) 9 SCC 54

become Rs.40500/- per annum which if multiplied by applying the multiplier of 18 the amount would be Rs.7,29,000/-. It is thus held that the claimant shall be entitled for compensation of Rs.7,29,000/- instead of Rs.486000/- as awarded by the Tribunal under the head of loss of dependency. So far as the compensation under the head of loss of love and affection and funeral expenses stands enhanced to Rs.1Lakh instead of Rs.25000/-. As a result the claimants shall be entitled for enhanced amount of Rs.323000/- in addition to what has already been awarded by the Tribunal. The enhanced amount shall also carry the same rate of interest as awarded by the Tribunal. Rest of the award by the Tribunal shall remain intact.

8. The appeal is thus allowed and disposed of.

Sd/-

P.Sam Koshy

Judge

Ashu